

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. RES. 412

Providing for the concurrence by the House with an amendment in the amendment of the Senate to the amendment of the House to S. 1636.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 1994

Mr. STUDDS submitted the following resolution; which was considered under suspension of the rules and agreed to

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## RESOLUTION

Providing for the concurrence by the House with an amendment in the amendment of the Senate to the amendment of the House to S. 1636.

1       *Resolved*, That upon the adoption of this resolution  
2 the bill (S. 1636), entitled “An Act to authorize appropria-  
3 tions for the Marine Mammal Protection Act of 1972 and  
4 to improve the program to reduce the incidental taking  
5 of marine mammals during the course of commercial fish-  
6 ing operations, and for other purposes”, with the Senate  
7 amendment to the House amendment thereto, shall be  
8 considered to have been taken from the Speaker’s table  
9 to the end that the Senate amendment thereto be, and

1 the same is hereby, agreed to with an amendment as fol-  
2 lows:

3 In lieu of the matter proposed to be inserted by the  
4 amendment of the Senate, insert the following:

5 **SECTION 1. SHORT TITLE.**

6 This Act may be cited as the “Marine Mammal Pro-  
7 tection Act Amendments of 1994”.

8 **SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION**  
9 **ACT OF 1972.**

10 (a) REFERENCES.—Except as otherwise expressly  
11 provided, whenever in this Act an amendment or repeal  
12 is expressed in terms of an amendment to, or repeal of,  
13 a section or other provision, the reference shall be consid-  
14 ered to be made to a section or other provision of the Ma-  
15 rine Mammal Protection Act of 1972 (16 U.S.C. 1361 et  
16 seq.).

17 (b) RELATIONSHIP TO OTHER LAW.—Except as oth-  
18 erwise expressly provided, nothing in this Act is intended  
19 to amend, repeal, or otherwise affect any other provision  
20 of law.

21 **SEC. 3. FINDINGS AND DECLARATION OF POLICY.**

22 Section 2 (16 U.S.C. 1361) is amended—

23 (1) in paragraph (2) by inserting “essential  
24 habitats, including” after “made to protect”; and

1           (2) in paragraph (5) in the matter following  
2           subparagraph (B) by inserting “and their habitats”  
3           before “is therefore necessary”.

4 **SEC. 4. MORATORIUM AND EXCEPTIONS.**

5           (a) IN GENERAL.—Section 101(a) (16 U.S.C.  
6 1371(a)) is amended—

7           (1) by amending paragraph (1) to read as fol-  
8           lows:

9           “(1) Consistent with the provisions of section  
10          104, permits may be issued by the Secretary for tak-  
11          ing, and importation for purposes of scientific re-  
12          search, public display, photography for educational  
13          or commercial purposes, or enhancing the survival or  
14          recovery of a species or stock, or for importation of  
15          polar bear parts (other than internal organs) taken  
16          in sport hunts in Canada. Such permits, except per-  
17          mits issued under section 104(c)(5), may be issued  
18          if the taking or importation proposed to be made is  
19          first reviewed by the Marine Mammal Commission  
20          and the Committee of Scientific Advisors on Marine  
21          Mammals established under title II. The Commis-  
22          sion and Committee shall recommend any proposed  
23          taking or importation, other than importation under  
24          section 104(c)(5), which is consistent with the pur-  
25          poses and policies of section 2 of this Act. If the

1 Secretary issues such a permit for importation, the  
2 Secretary shall issue to the importer concerned a  
3 certificate to that effect in such form as the Sec-  
4 retary of the Treasury prescribes, and such importa-  
5 tion may be made upon presentation of the certifi-  
6 cate to the customs officer concerned.”;

7 (2) in paragraph (2) in the first sentence, by  
8 inserting before the period at the end the following:  
9 “, or in lieu of such permits, authorizations may be  
10 granted therefor under section 118, subject to regu-  
11 lations prescribed under that section by the Sec-  
12 retary without regard to section 103”;

13 (3) in paragraph (3)(B)—

14 (A) by inserting “, photography for edu-  
15 cational or commercial purposes,” after “pur-  
16 poses”; and

17 (B) by inserting “or as provided for under  
18 paragraph (5) of this subsection,” after “sub-  
19 section,”;

20 (4) by amending paragraph (4) to read as fol-  
21 lows:

22 “(4)(A) Except as provided in subparagraphs  
23 (B) and (C), the provisions of this Act shall not  
24 apply to the use of measures—

1           “(i) by the owner of fishing gear or catch,  
2           or an employee or agent of such owner, to deter  
3           a marine mammal from damaging the gear or  
4           catch;

5           “(ii) by the owner of other private prop-  
6           erty, or an agent, bailee, or employee of such  
7           owner, to deter a marine mammal from damag-  
8           ing private property;

9           “(iii) by any person, to deter a marine  
10          mammal from endangering personal safety; or

11          “(iv) by a government employee, to deter a  
12          marine mammal from damaging public prop-  
13          erty,

14          so long as such measures do not result in the death  
15          or serious injury of a marine mammal.

16          “(B) The Secretary shall, through consultation  
17          with appropriate experts, and after notice and op-  
18          portunity for public comment, publish in the Federal  
19          Register a list of guidelines for use in safely deter-  
20          ring marine mammals. In the case of marine mam-  
21          mals listed as endangered species or threatened spe-  
22          cies under the Endangered Species Act of 1973, the  
23          Secretary shall recommend specific measures which  
24          may be used to nonlethally deter marine mammals.  
25          Actions to deter marine mammals consistent with

1 such guidelines or specific measures shall not be a  
2 violation of this Act.

3 “(C) If the Secretary determines, using the best  
4 scientific information available, that certain forms of  
5 deterrence have a significant adverse effect on ma-  
6 rine mammals, the Secretary may prohibit such de-  
7 terrent methods, after notice and opportunity for  
8 public comment, through regulation under this Act.

9 “(D) The authority to deter marine mammals  
10 pursuant to subparagraph (A) applies to all marine  
11 mammals, including all stocks designated as de-  
12pleted under this Act.”;

13 (5) in paragraph (5) by adding at the end the  
14 following new subparagraphs:

15 “(D)(i) Upon request therefor by citizens of the  
16 United States who engage in a specified activity  
17 (other than commercial fishing) within a specific ge-  
18 ographic region, the Secretary shall authorize, for  
19 periods of not more than 1 year, subject to such  
20 conditions as the Secretary may specify, the inciden-  
21 tal, but not intentional, taking by harassment of  
22 small numbers of marine mammals of a species or  
23 population stock by such citizens while engaging in  
24 that activity within that region if the Secretary finds

1       that such harassment during each period con-  
2       cerned—

3               “(I) will have a negligible impact on such  
4       species or stock, and

5               “(II) will not have an unmitigable adverse  
6       impact on the availability of such species or  
7       stock for taking for subsistence uses pursuant  
8       to subsection (b), or section 109(f) or pursuant  
9       to a cooperative agreement under section 119.

10              “(ii) The authorization for such activity shall  
11      prescribe, where applicable—

12              “(I) permissible methods of taking by har-  
13      assment pursuant to such activity, and other  
14      means of effecting the least practicable impact  
15      on such species or stock and its habitat, paying  
16      particular attention to rookeries, mating  
17      grounds, and areas of similar significance, and  
18      on the availability of such species or stock for  
19      taking for subsistence uses pursuant to sub-  
20      section (b) or section 109(f) or pursuant to a  
21      cooperative agreement under section 119,

22              “(II) the measures that the Secretary de-  
23      termines are necessary to ensure no unmitigable  
24      adverse impact on the availability of the species  
25      or stock for taking for subsistence uses pursu-

1 ant to subsection (b) or section 109(f) or pursu-  
2 ant to a cooperative agreement under section  
3 119, and

4 “(III) requirements pertaining to the mon-  
5 itoring and reporting of such taking by harass-  
6 ment, including requirements for the independ-  
7 ent peer review of proposed monitoring plans or  
8 other research proposals where the proposed ac-  
9 tivity may affect the availability of a species or  
10 stock for taking for subsistence uses pursuant  
11 to subsection (b) or section 109(f) or pursuant  
12 to a cooperative agreement under section 119.

13 “(iii) The Secretary shall publish a proposed  
14 authorization not later than 45 days after receiving  
15 an application under this subparagraph and request  
16 public comment through notice in the Federal Reg-  
17 ister, newspapers of general circulation, and appro-  
18 priate electronic media and to all locally affected  
19 communities for a period of 30 days after publica-  
20 tion. Not later than 45 days after the close of the  
21 public comment period, if the Secretary makes the  
22 findings set forth in clause (i), the Secretary shall  
23 issue an authorization with appropriate conditions to  
24 meet the requirements of clause (ii).



1           “(iv) The Secretary shall modify, suspend, or  
2       revoke an authorization if the Secretary finds that  
3       the provisions of clauses (i) or (ii) are not being met.

4           “(v) A person conducting an activity for which  
5       an authorization has been granted under this sub-  
6       paragraph shall not be subject to the penalties of  
7       this Act for taking by harassment that occurs in  
8       compliance with such authorization.

9           “(E)(i) During any period of up to 3 consecu-  
10      tive years, the Secretary shall allow the incidental,  
11      but not the intentional, taking by persons using ves-  
12      sels of the United States or vessels which have valid  
13      fishing permits issued by the Secretary in accord-  
14      ance with section 204(b) of the Magnuson Fishery  
15      Conservation and Management Act (16 U.S.C.  
16      1824(b)), while engaging in commercial fishing oper-  
17      ations, of marine mammals from a species or stock  
18      designated as depleted because of its listing as an  
19      endangered species or threatened species under the  
20      Endangered Species Act of 1973 (16 U.S.C. 1531 et  
21      seq.) if the Secretary, after notice and opportunity  
22      for public comment, determines that—

23           “(I) the incidental mortality and serious  
24      injury from commercial fisheries will have a  
25      negligible impact on such species or stock;

1           “(II) a recovery plan has been developed or  
2           is being developed for such species or stock pur-  
3           suant to the Endangered Species Act of 1973;  
4           and

5           “(III) where required under section 118, a  
6           monitoring program is established under sub-  
7           section (d) of such section, vessels engaged in  
8           such fisheries are registered in accordance with  
9           such section, and a take reduction plan has  
10          been developed or is being developed for such  
11          species or stock.

12          “(ii) Upon a determination by the Secretary  
13          that the requirements of clause (i) have been met,  
14          the Secretary shall publish in the Federal Register  
15          a list of those fisheries for which such determination  
16          was made, and, for vessels required to register under  
17          section 118, shall issue an appropriate permit for  
18          each authorization granted under such section to  
19          vessels to which this paragraph applies. Vessels en-  
20          gaged in a fishery included in the notice published  
21          by the Secretary under this clause which are not re-  
22          quired to register under section 118 shall not be  
23          subject to the penalties of this Act for the incidental  
24          taking of marine mammals to which this paragraph  
25          applies, so long as the owner or master of such ves-

1 sel reports any incidental mortality or injury of such  
2 marine mammals to the Secretary in accordance  
3 with section 118.

4 “(iii) If, during the course of the commercial  
5 fishing season, the Secretary determines that the  
6 level of incidental mortality or serious injury from  
7 commercial fisheries for which a determination was  
8 made under clause (i) has resulted or is likely to re-  
9 sult in an impact that is more than negligible on the  
10 endangered or threatened species or stock, the Sec-  
11 retary shall use the emergency authority granted  
12 under section 118 to protect such species or stock,  
13 and may modify any permit granted under this para-  
14 graph as necessary.

15 “(iv) The Secretary may suspend for a time  
16 certain or revoke a permit granted under this sub-  
17 paragraph only if the Secretary determines that the  
18 conditions or limitations set forth in such permit are  
19 not being complied with. The Secretary may amend  
20 or modify, after notice and opportunity for public  
21 comment, the list of fisheries published under clause  
22 (ii) whenever the Secretary determines there has  
23 been a significant change in the information or con-  
24 ditions used to determine such list.

1           “(v) Sections 103 and 104 shall not apply to  
2           the taking of marine mammals under the authority  
3           of this subparagraph.

4           “(vi) This subparagraph shall not govern the  
5           incidental taking of California sea otters and shall  
6           not be deemed to amend or repeal the Act of No-  
7           vember 7, 1986 (Public Law 99-625; 100 Stat.  
8           3500).”; and

9           (6) by adding at the end the following new  
10          paragraph:

11          “(6)(A) A marine mammal product may be im-  
12          ported into the United States if the product—

13               “(i) was legally possessed and exported by  
14               any citizen of the United States in conjunction  
15               with travel outside the United States, provided  
16               that the product is imported into the United  
17               States by the same person upon the termination  
18               of travel;

19               “(ii) was acquired outside of the United  
20               States as part of a cultural exchange by an In-  
21               dian, Aleut, or Eskimo residing in Alaska; or

22               “(iii) is owned by a Native inhabitant of  
23               Russia, Canada, or Greenland and is imported  
24               for noncommercial purposes in conjunction with  
25               travel within the United States or as part of a

1 cultural exchange with an Indian, Aleut, or Es-  
2 kimo residing in Alaska.

3 “(B) For the purposes of this paragraph, the  
4 term—

5 “(i) ‘Native inhabitant of Russia, Canada,  
6 or Greenland’ means a person residing in Rus-  
7 sia, Canada, or Greenland who is related by  
8 blood, is a member of the same clan or ethno-  
9 logical grouping, or shares a common heritage  
10 with an Indian, Aleut, or Eskimo residing in  
11 Alaska; and

12 “(ii) ‘cultural exchange’ means the sharing  
13 or exchange of ideas, information, gifts, cloth-  
14 ing, or handicrafts between an Indian, Aleut, or  
15 Eskimo residing in Alaska and a Native inhab-  
16 itant of Russia, Canada, or Greenland, includ-  
17 ing rendering of raw marine mammal parts as  
18 part of such exchange into clothing or handi-  
19 crafts through carving, painting, sewing, or  
20 decorating.”.

21 (b) ACTIONS AFFECTING SECTION 101(b).—Section  
22 101(b) (16 U.S.C. 1371(b)) is amended by adding at the  
23 end the following new sentences: “In promulgating any  
24 regulation or making any assessment pursuant to a hear-  
25 ing or proceeding under this subsection or section

1 117(b)(2), or in making any determination of depletion  
2 under this subsection or finding regarding unmitigable ad-  
3 verse impacts under subsection (a)(5) that affects stocks  
4 or persons to which this subsection applies, the Secretary  
5 shall be responsible for demonstrating that such regula-  
6 tion, assessment, determination, or finding is supported  
7 by substantial evidence on the basis of the record as a  
8 whole. The preceding sentence shall only be applicable in  
9 an action brought by one or more Alaska Native organiza-  
10 tions representing persons to which this subsection ap-  
11 plies.”.

12 (c) TAKING IN DEFENSE OF SELF OR OTHERS.—  
13 Section 101(c) (16 U.S.C. 1371(c)) is amended to read  
14 as follows:

15 “(c) It shall not be a violation of this Act to take  
16 a marine mammal if such taking is imminently necessary  
17 in self-defense or to save the life of a person in immediate  
18 danger, and such taking is reported to the Secretary with-  
19 in 48 hours. The Secretary may seize and dispose of any  
20 carcass.”.

21 **SEC. 5. PERMITS.**

22 (a) PROHIBITIONS.—Section 102(a) (16 U.S.C.  
23 1372(a)) is amended—

1 (1) in paragraph (2)(B) by striking “for any  
2 purpose in any way connected with the taking or im-  
3 portation of” and inserting “to take or import”; and

4 (2) in paragraph (4) by—

5 (A) striking “or offer to purchase or sell”  
6 and inserting “export, or offer to purchase, sell,  
7 or export”;

8 (B) striking “product; and” and inserting  
9 “product—”; and

10 (C) inserting after and below the text of  
11 the paragraph the following:

12 “(A) that is taken in violation of this Act;  
13 or

14 “(B) for any purpose other than public  
15 display, scientific research, or enhancing the  
16 survival of a species or stock as provided for  
17 under subsection 104(c); and”.

18 (b) PERMITS.—Section 104 (16 U.S.C. 1374) is  
19 amended—

20 (1) in subsection (a) by adding at the end the  
21 following: “Permits for the incidental taking of ma-  
22 rine mammals in the course of commercial fishing  
23 operations may only be issued as specifically pro-  
24 vided for in sections 101(a)(5) or 306, or subsection  
25 (h) of this section.”;

1 (2) in subsection (c)—

2 (A) in paragraph (1) in the first sentence  
3 by striking “and after”;

4 (B) by amending paragraph (2) to read as  
5 follows:

6 “(2)(A) A permit may be issued to take or im-  
7 port a marine mammal for the purpose of public dis-  
8 play only to a person which the Secretary deter-  
9 mines—

10 “(i) offers a program for education or con-  
11 servation purposes that is based on profes-  
12 sionally recognized standards of the public dis-  
13 play community;

14 “(ii) is registered or holds a license issued  
15 under 7 U.S.C. 2131 et seq.; and

16 “(iii) maintains facilities for the public dis-  
17 play of marine mammals that are open to the  
18 public on a regularly scheduled basis and that  
19 access to such facilities is not limited or re-  
20 stricted other than by charging of an admission  
21 fee.

22 “(B) A permit under this paragraph shall grant  
23 to the person to which it is issued the right, without  
24 obtaining any additional permit or authorization  
25 under this Act, to—



1           “(i) take, import, purchase, offer to pur-  
2 chase, possess, or transport the marine mam-  
3 mal that is the subject of the permit; and

4           “(ii) sell, export, or otherwise transfer pos-  
5 session of the marine mammal, or offer to sell,  
6 export, or otherwise transfer possession of the  
7 marine mammal—

8           “(I) for the purpose of public display,  
9 to a person that meets the requirements of  
10 clauses (i), (ii), and (iii) of subparagraph  
11 (A);

12           “(II) for the purpose of scientific re-  
13 search, to a person that meets the require-  
14 ments of paragraph (3); or

15           “(III) for the purpose of enhancing  
16 the survival or recovery of a species or  
17 stock, to a person that meets the require-  
18 ments of paragraph (4).

19           “(C) A person to which a marine mammal is  
20 sold or exported or to which possession of a marine  
21 mammal is otherwise transferred under the author-  
22 ity of subparagraph (B) shall have the rights and re-  
23 sponsibilities described in subparagraph (B) with re-  
24 spect to the marine mammal without obtaining any

1 additional permit or authorization under this Act.

2 Such responsibilities shall be limited to—

3 “(i) for the purpose of public display, the  
4 responsibility to meet the requirements of  
5 clauses (i), (ii), and (iii) of subparagraph (A),

6 “(ii) for the purpose of scientific research,  
7 the responsibility to meet the requirements of  
8 paragraph (3), and

9 “(iii) for the purpose of enhancing the sur-  
10 vival or recovery of a species or stock, the re-  
11 sponsibility to meet the requirements of para-  
12 graph (4).

13 “(D) If the Secretary—

14 “(i) finds in concurrence with the Sec-  
15 retary of Agriculture, that a person that holds  
16 a permit under this paragraph for a marine  
17 mammal, or a person exercising rights under  
18 subparagraph (C), no longer meets the require-  
19 ments of subparagraph (A)(ii) and is not rea-  
20 sonably likely to meet those requirements in the  
21 near future, or

22 “(ii) finds that a person that holds a per-  
23 mit under this paragraph for a marine mam-  
24 mal, or a person exercising rights under sub-  
25 paragraph (C), no longer meets the require-

1           ments of subparagraph (A) (i) or (iii) and is  
2           not reasonably likely to meet those require-  
3           ments in the near future,

4           the Secretary may revoke the permit in accordance  
5           with section 104(e), seize the marine mammal, or  
6           cooperate with other persons authorized to hold ma-  
7           rine mammals under this Act for disposition of the  
8           marine mammal. The Secretary may recover from  
9           the person expenses incurred by the Secretary for  
10          that seizure.

11          “(E) No marine mammal held pursuant to a  
12          permit issued under subparagraph (A), or by a per-  
13          son exercising rights under subparagraph (C), may  
14          be sold, purchased, exported, or transported unless  
15          the Secretary is notified of such action no later than  
16          15 days before such action, and such action is for  
17          purposes of public display, scientific research, or en-  
18          hancing the survival or recovery of a species or  
19          stock. The Secretary may only require the notifica-  
20          tion to include the information required for the in-  
21          ventory established under paragraph (10).”;

22                 (C) by amending paragraph (3) to read as  
23          follows:

24          “(3)(A) The Secretary may issue a permit  
25          under this paragraph for scientific research purposes

1 to an applicant which submits with its permit appli-  
2 cation information indicating that the taking is re-  
3 quired to further a bona fide scientific purpose. The  
4 Secretary may issue a permit under this paragraph  
5 before the end of the public review and comment pe-  
6 riod required under subsection (d)(2) if delaying is-  
7 suance of the permit could result in injury to a spe-  
8 cies, stock, or individual, or in loss of unique re-  
9 search opportunities.

10 “(B) No permit issued for purposes of scientific  
11 research shall authorize the lethal taking of a ma-  
12 rine mammal unless the applicant demonstrates that  
13 a nonlethal method of conducting the research is not  
14 feasible. The Secretary shall not issue a permit for  
15 research which involves the lethal taking of a marine  
16 mammal from a species or stock that is depleted,  
17 unless the Secretary determines that the results of  
18 such research will directly benefit that species or  
19 stock, or that such research fulfills a critically im-  
20 portant research need.

21 “(C) Not later than 120 days after the date of  
22 enactment of the Marine Mammal Protection Act  
23 Amendments of 1994, the Secretary shall issue a  
24 general authorization and implementing regulations  
25 allowing bona fide scientific research that may result

1       only in taking by Level B harassment of a marine  
2       mammal. Such authorization shall apply to persons  
3       which submit, by 60 days before commencement of  
4       such research, a letter of intent via certified mail to  
5       the Secretary containing the following:

6               “(i) The species or stocks of marine mam-  
7               mals which may be harassed.

8               “(ii) The geographic location of the re-  
9               search.

10              “(iii) The period of time over which the re-  
11              search will be conducted.

12              “(iv) The purpose of the research, includ-  
13              ing a description of how the definition of bona  
14              fide research as established under this Act  
15              would apply.

16              “(v) Methods to be used to conduct the re-  
17              search.

18       Not later than 30 days after receipt of a letter of  
19       intent to conduct scientific research under the gen-  
20       eral authorization, the Secretary shall issue a letter  
21       to the applicant confirming that the general author-  
22       ization applies, or, if the proposed research is likely  
23       to result in the taking (including Level A harass-  
24       ment) of a marine mammal, shall notify the appli-  
25       cant that subparagraph (A) applies.”; and

1 (D) by adding at the end the following new  
2 paragraphs:

3 “(5)(A) The Secretary may issue a permit for  
4 the importation of polar bear parts (other than in-  
5 ternal organs) taken in sport hunts in Canada, in-  
6 cluding polar bears taken but not imported prior to  
7 the date of enactment of the Marine Mammal Pro-  
8 tection Act Amendments of 1994, to an applicant  
9 which submits with its permit application proof that  
10 the polar bear was legally harvested in Canada by  
11 the applicant. Such a permit shall be issued if the  
12 Secretary, in consultation with the Marine Mammal  
13 Commission and after notice and opportunity for  
14 public comment, finds that—

15 “(i) Canada has a monitored and enforced  
16 sport hunting program consistent with the pur-  
17 poses of the Agreement on the Conservation of  
18 Polar Bears;

19 “(ii) Canada has a sport hunting program  
20 based on scientifically sound quotas ensuring  
21 the maintenance of the affected population  
22 stock at a sustainable level;

23 “(iii) the export and subsequent import are  
24 consistent with the provisions of the Convention  
25 on International Trade in Endangered Species

1 of Wild Fauna and Flora and other inter-  
2 national agreements and conventions; and

3 “(iv) the export and subsequent import are  
4 not likely to contribute to illegal trade in bear  
5 parts.

6 “(B) The Secretary shall establish and charge  
7 a reasonable fee for permits issued under this para-  
8 graph. All fees collected under this paragraph shall  
9 be available to the Secretary for use in developing  
10 and implementing cooperative research and manage-  
11 ment programs for the conservation of polar bears in  
12 Alaska and Russia pursuant to section 113(d).

13 “(C)(i) The Secretary shall undertake a sci-  
14 entific review of the impact of permits issued under  
15 this paragraph on the polar bear population stocks  
16 in Canada within 2 years after the date of enact-  
17 ment of this paragraph. The Secretary shall provide  
18 an opportunity for public comment during the course  
19 of such review, and shall include a response to such  
20 public comment in the final report on such review.

21 “(ii) The Secretary shall not issue permits  
22 under this paragraph after September 30, 1996, if  
23 the Secretary determines, based on the scientific re-  
24 view, that the issuance of permits under this para-  
25 graph is having a significant adverse impact on the

1 polar bear population stocks in Canada. The Sec-  
2 retary may review such determination annually  
3 thereafter, in light of the best scientific information  
4 available, and shall complete the review not later  
5 than January 31 in any year a review is undertaken.  
6 The Secretary may issue permits under this para-  
7 graph whenever the Secretary determines, on the  
8 basis of such annual review, that the issuance of  
9 permits under this paragraph is not having a signifi-  
10 cant adverse impact on the polar bear population  
11 stocks in Canada.

12 “(6) A permit may be issued for photography  
13 for educational or commercial purposes involving  
14 marine mammals in the wild only to an applicant  
15 which submits with its permit application informa-  
16 tion indicating that the taking will be limited to  
17 Level B harassment, and the manner in which the  
18 products of such activities will be made available to  
19 the public.

20 “(7) Upon request by a person for a permit  
21 under paragraph (2), (3), or (4) for a marine mam-  
22 mal which is in the possession of any person author-  
23 ized to possess it under this Act and which is deter-  
24 mined under guidance under section 402(a) not to  
25 be releasable to the wild, the Secretary shall issue



1 the permit to the person requesting the permit if  
2 that person—

3 “(A) meets the requirements of clauses (i),  
4 (ii), and (iii) of paragraph (2)(A), in the case  
5 of a request for a permit under paragraph (2);

6 “(B) meets the requirements of paragraph  
7 (3), in the case of a request for a permit under  
8 that paragraph; or

9 “(C) meets the requirements of paragraph  
10 (4), in the case of a request for a permit under  
11 that paragraph.

12 “(8)(A) No additional permit or authorization  
13 shall be required to possess, sell, purchase, trans-  
14 port, export, or offer to sell or purchase the progeny  
15 of marine mammals taken or imported under this  
16 subsection, if such possession, sale, purchase, trans-  
17 port, export, or offer to sell or purchase is—

18 “(i) for the purpose of public display, and  
19 by or to, respectively, a person which meets the  
20 requirements of clauses (i), (ii), and (iii) of  
21 paragraph (2)(A);

22 “(ii) for the purpose of scientific research,  
23 and by or to, respectively, a person which meets  
24 the requirements of paragraph (3); or

1           “(iii) for the purpose of enhancing the sur-  
2           vival or recovery of a species or stock, and by  
3           or to, respectively, a person which meets the re-  
4           quirements of paragraph (4).

5           “(B)(i) A person which has a permit under  
6           paragraph (2), or a person exercising rights under  
7           paragraph (2)(C), which has possession of a marine  
8           mammal that gives birth to progeny shall—

9           “(I) notify the Secretary of the birth of  
10          such progeny within 30 days after the date of  
11          birth; and

12          “(II) notify the Secretary of the sale, pur-  
13          chase, or transport of such progeny no later  
14          than 15 days before such action.

15          “(ii) The Secretary may only require notifica-  
16          tion under clause (i) to include the information re-  
17          quired for the inventory established under paragraph  
18          (10).

19          “(C) Any progeny of a marine mammal born in  
20          captivity before the date of the enactment of the Ma-  
21          rine Mammal Protection Act Amendments of 1994  
22          and held in captivity for the purpose of public dis-  
23          play shall be treated as though born after that date  
24          of enactment.

1           “(9) No marine mammal may be exported for  
2           the purpose of public display, scientific research, or  
3           enhancing the survival or recovery of a species or  
4           stock unless the receiving facility meets standards  
5           that are comparable to the requirements that a per-  
6           son must meet to receive a permit under this sub-  
7           section for that purpose.

8           “(10) The Secretary shall establish and main-  
9           tain an inventory of all marine mammals possessed  
10          pursuant to permits issued under paragraph (2)(A),  
11          by persons exercising rights under paragraph (2)(C),  
12          and all progeny of such marine mammals. The in-  
13          ventory shall contain, for each marine mammal, only  
14          the following information which shall be provided by  
15          a person holding a marine mammal under this Act:

16               “(A) The name of the marine mammal or  
17               other identification.

18               “(B) The sex of the marine mammal.

19               “(C) The estimated or actual birth date of  
20               the marine mammal.

21               “(D) The date of acquisition or disposition  
22               of the marine mammal by the permit holder.

23               “(E) The source from whom the marine  
24               mammal was acquired including the location of  
25               the take from the wild, if applicable.

1           “(F) If the marine mammal is transferred,  
2           the name of the recipient.

3           “(G) A notation if the animal was acquired  
4           as the result of a stranding.

5           “(H) The date of death of the marine  
6           mammal and the cause of death when deter-  
7           mined.”; and

8           (3) in subsection (e)(1) by—

9           (A) striking “or” at the end of subpara-  
10          graph (A);

11          (B) striking the period at the end of sub-  
12          paragraph (B) and inserting “, or”; and

13          (C) adding at the end the following new  
14          subparagraph:

15          “(C) if, in the case of a permit under sub-  
16          section (c)(5) authorizing importation of polar bear  
17          parts, the Secretary, in consultation with the appro-  
18          priate authority in Canada, determines that the sus-  
19          tainability of Canada’s polar bear population stocks  
20          are being adversely affected or that sport hunting  
21          may be having a detrimental effect on maintaining  
22          polar bear population stocks throughout their  
23          range.”.

24          (c) EXISTING PERMITS.—Any permit issued under  
25          section 104(c)(2) of the Marine Mammal Protection Act

1 of 1972 (16 U.S.C. 1374(c)(2)) before the date of the en-  
2 actment of this Act is hereby modified to be consistent  
3 with that section as amended by this Act.

4 **SEC. 6. PURPOSE AND USE OF THE FUND.**

5 Section 405 (16 U.S.C. 1421d), as so redesignated  
6 by this Act, is amended—

7 (1) in subsection (b)(1)(A)—

8 (A) by striking “and” at the end of clause  
9 (i); and

10 (B) by inserting at the end the following  
11 new clause:

12 “(iii) for care and maintenance of marine mam-  
13 mal seized under section 104(c)(2)(D); and”; and

14 (2) in subsection (d) by inserting after “For  
15 purposes of carrying out this title” the following:  
16 “and section 104(c)(2)(D)”.

17 **SEC. 7. REGULATIONS AND ADMINISTRATION; APPLICA-**  
18 **TION TO OTHER TREATIES AND CONVEN-**  
19 **TIONS.**

20 (a) MEASURES FOR IMPACTS ON STRATEGIC  
21 STOCKS.—Section 112 (16 U.S.C. 1382) is amended by  
22 adding at the end the following new subsection:

23 “(e) If the Secretary determines, based on a stock  
24 assessment under section 117 or other significant new in-  
25 formation obtained under this Act, that impacts on rook-

1 eries, mating grounds, or other areas of similar ecological  
2 significance to marine mammals may be causing the de-  
3 cline or impeding the recovery of a strategic stock, the  
4 Secretary may develop and implement conservation or  
5 management measures to alleviate those impacts. Such  
6 measures shall be developed and implemented after con-  
7 sultation with the Marine Mammal Commission and the  
8 appropriate Federal agencies and after notice and oppor-  
9 tunity for public comment.”.

10 (b) INTERNATIONAL POLAR BEAR CONSERVATION.—

11 Section 113 (16 U.S.C. 1383) is amended by—

12 (1) designating the existing paragraph as sub-  
13 section (a); and

14 (2) adding at the end the following new sub-  
15 sections:

16 “(b) Not later than 1 year after the date of enact-  
17 ment of the Marine Mammal Protection Act Amendments  
18 of 1994, the Secretary of the Interior shall, in consultation  
19 with the contracting parties, initiate a review of the effec-  
20 tiveness of the Agreement on the Conservation of Polar  
21 Bears, as provided for in Article IX of the Agreement, and  
22 establish a process by which future reviews shall be con-  
23 ducted.

24 “(c) The Secretary of the Interior, in consultation  
25 with the Secretary of State and the Marine Mammal Com-

1 mission, shall review the effectiveness of United States im-  
2 plementation of the Agreement on the Conservation of  
3 Polar Bears, particularly with respect to the habitat pro-  
4 tection mandates contained in Article II. The Secretary  
5 shall report the results of this review to the Committee  
6 on Merchant Marine and Fisheries of the House of Rep-  
7 resentatives and the Committee on Commerce, Science,  
8 and Transportation of the Senate not later than April 1,  
9 1995.

10 “(d) Not later than 6 months after the date of enact-  
11 ment of the Marine Mammal Protection Act Amendments  
12 of 1994, the Secretary of the Interior, acting through the  
13 Secretary of State and in consultation with the Marine  
14 Mammal Commission and the State of Alaska, shall con-  
15 sult with the appropriate officials of the Russian Federa-  
16 tion on the development and implementation of enhanced  
17 cooperative research and management programs for the  
18 conservation of polar bears in Alaska and Russia. The  
19 Secretary shall report the results of this consultation and  
20 provide periodic progress reports on the research and  
21 management programs to the Committee on Merchant  
22 Marine and Fisheries of the House of Representatives and  
23 the Committee on Commerce, Science and Transportation  
24 of the Senate.”.

1 **SEC. 8. CONSERVATION PLANS.**

2 Section 115(b) (16 U.S.C. 1383b(b)) is amended by  
3 adding at the end the following new paragraph:

4 “(4) If the Secretary determines that a take reduc-  
5 tion plan is necessary to reduce the incidental taking of  
6 marine mammals in the course of commercial fishing oper-  
7 ations from a strategic stock, or for species or stocks  
8 which interact with a commercial fishery for which the  
9 Secretary has made a determination under section  
10 118(f)(1), any conservation plan prepared under this sub-  
11 section for such species or stock shall incorporate the take  
12 reduction plan required under section 118 for such species  
13 or stock.”.

14 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) DEPARTMENTS OF COMMERCE AND THE INTE-  
16 RIOR.—Section 116 is amended to read as follows:

17 **“SEC. 116. AUTHORIZATION OF APPROPRIATIONS.**

18 “(a) DEPARTMENT OF COMMERCE.—(1) There are  
19 authorized to be appropriated to the Department of Com-  
20 merce, for purposes of carrying out its functions and re-  
21 sponsibilities under this title (other than sections 117 and  
22 118) and title IV, \$12,138,000 for fiscal year 1994,  
23 \$12,623,000 for fiscal year 1995, \$13,128,000 for fiscal  
24 year 1996, \$13,653,000 for fiscal year 1997, \$14,200,000  
25 for fiscal year 1998, and \$14,768,000 for fiscal year 1999.



1       “(2) There are authorized to be appropriated to the  
2 Department of Commerce, for purposes of carrying out  
3 sections 117 and 118, \$20,000,000 for each of the fiscal  
4 years 1994 through 1999.

5       “(b) DEPARTMENT OF THE INTERIOR.—There are  
6 authorized to be appropriated to the Department of the  
7 Interior, for purposes of carrying out its functions and re-  
8 sponsibilities under this title, \$8,000,000 for fiscal year  
9 1994, \$8,600,000 for fiscal year 1995, \$9,000,000 for fis-  
10 cal year 1996, \$9,400,000 for fiscal year 1997,  
11 \$9,900,000 for fiscal year 1998, and \$10,296,000 for fis-  
12 cal year 1999.”.

13       (b) MARINE MAMMAL COMMISSION.—Section 207 is  
14 amended to read as follows:

15       **“SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

16       ““There are authorized to be appropriated to the Ma-  
17 rine Mammal Commission, for purposes of carrying out  
18 this title, \$1,500,000 for fiscal year 1994, \$1,550,000 for  
19 fiscal year 1995, \$1,600,000 for fiscal year 1996,  
20 \$1,650,000 for fiscal year 1997, \$1,700,000 for fiscal year  
21 1998, and \$1,750,000 for fiscal year 1999.”.

22       (c) REPEAL.—Section 7 of the Act entitled “An Act  
23 to improve the operation of the Marine Mammal Protec-  
24 tion Act of 1972, and for other purposes”, approved Octo-  
25 ber 9, 1981 (16 U.S.C. 1384 and 1407), is repealed.

1 **SEC. 10. STOCK ASSESSMENTS.**

2 Title I (16 U.S.C. 1371 et seq.) is amended by adding  
3 at the end the following new section:

4 **“SEC. 117. STOCK ASSESSMENTS.**

5 “(a) IN GENERAL.—Not later than August 1, 1994,  
6 the Secretary shall, in consultation with the appropriate  
7 regional scientific review group established under sub-  
8 section (d), prepare a draft stock assessment for each ma-  
9 rine mammal stock which occurs in waters under the juris-  
10 diction of the United States. Each draft stock assessment,  
11 based on the best scientific information available, shall—

12 “(1) describe the geographic range of the af-  
13 fected stock, including any seasonal or temporal var-  
14 iation in such range;

15 “(2) provide for such stock the minimum popu-  
16 lation estimate, current and maximum net productiv-  
17 ity rates, and current population trend, including a  
18 description of the information upon which these are  
19 based;

20 “(3) estimate the annual human-caused mortal-  
21 ity and serious injury of the stock by source and, for  
22 a strategic stock, other factors that may be causing  
23 a decline or impeding recovery of the stock, includ-  
24 ing effects on marine mammal habitat and prey;

25 “(4) describe commercial fisheries that interact  
26 with the stock, including—

1           “(A) the approximate number of vessels  
2 actively participating in each such fishery;

3           “(B) the estimated level of incidental mor-  
4 tality and serious injury of the stock by each  
5 such fishery on an annual basis;

6           “(C) seasonal or area differences in such  
7 incidental mortality or serious injury; and

8           “(D) the rate, based on the appropriate  
9 standard unit of fishing effort, of such inciden-  
10 tal mortality and serious injury, and an analysis  
11 stating whether such level is insignificant and is  
12 approaching a zero mortality and serious injury  
13 rate;

14           “(5) categorize the status of the stock as one  
15 that either—

16           “(A) has a level of human-caused mortality  
17 and serious injury that is not likely to cause the  
18 stock to be reduced below its optimum sustain-  
19 able population; or

20           “(B) is a strategic stock, with a descrip-  
21 tion of the reasons therefor; and

22           “(6) estimate the potential biological removal  
23 level for the stock, describing the information used  
24 to calculate it, including the recovery factor.

1       “(b) PUBLIC COMMENT.—(1) The Secretary shall  
2 publish in the Federal Register a notice of the availability  
3 of a draft stock assessment or any revision thereof and  
4 provide an opportunity for public review and comment  
5 during a period of 90 days. Such notice shall include a  
6 summary of the assessment and a list of the sources of  
7 information or published reports upon which the assess-  
8 ment is based.

9       “(2) Subsequent to the notice of availability required  
10 under paragraph (1), if requested by a person to which  
11 section 101(b) applies, the Secretary shall conduct a pro-  
12 ceeding on the record prior to publishing a final stock as-  
13 sessment or any revision thereof for any stock subject to  
14 taking under section 101(b).

15       “(3) After consideration of the best scientific infor-  
16 mation available, the advice of the appropriate regional  
17 scientific review group established under subsection (d),  
18 and the comments of the general public, the Secretary  
19 shall publish in the Federal Register a notice of availabil-  
20 ity and a summary of the final stock assessment or any  
21 revision thereof, not later than 90 days after—

22               “(A) the close of the public comment period on  
23 a draft stock assessment or revision thereof; or

24               “(B) final action on an agency proceeding pur-  
25 suant to paragraph (2).

1       “(c) REVIEW AND REVISION.—(1) The Secretary  
2 shall review stock assessments in accordance with this sub-  
3 section—

4               “(A) at least annually for stocks which are  
5 specified as strategic stocks;

6               “(B) at least annually for stocks for which sig-  
7 nificant new information is available; and

8               “(C) at least once every 3 years for all other  
9 stocks.

10       “(2) If the review under paragraph (1) indicates that  
11 the status of the stock has changed or can be more accu-  
12 rately determined, the Secretary shall revise the stock as-  
13 sessment in accordance with subsection (b).

14       “(d) REGIONAL SCIENTIFIC REVIEW GROUPS.—(1)  
15 Not later than 60 days after the date of enactment of this  
16 section, the Secretary of Commerce shall, in consultation  
17 with the Secretary of the Interior (with respect to marine  
18 mammals under that Secretary’s jurisdiction), the Marine  
19 Mammal Commission, the Governors of affected adjacent  
20 coastal States, regional fishery and wildlife management  
21 authorities, Alaska Native organizations and Indian  
22 tribes, and environmental and fishery groups, establish  
23 three independent regional scientific review groups rep-  
24 resenting Alaska, the Pacific Coast (including Hawaii),  
25 and the Atlantic Coast (including the Gulf of Mexico), con-

1 sisting of individuals with expertise in marine mammal bi-  
2 ology and ecology, population dynamics and modeling,  
3 commercial fishing technology and practices, and stocks  
4 taken under section 101(b). The Secretary of Commerce  
5 shall, to the maximum extent practicable, attempt to  
6 achieve a balanced representation of viewpoints among the  
7 individuals on each regional scientific review group. The  
8 regional scientific review groups shall advise the Secretary  
9 on—

10           “(A) population estimates and the population  
11           status and trends of such stocks;

12           “(B) uncertainties and research needed regard-  
13           ing stock separation, abundance, or trends, and fac-  
14           tors affecting the distribution, size, or productivity  
15           of the stock;

16           “(C) uncertainties and research needed regard-  
17           ing the species, number, ages, gender, and reproduc-  
18           tive status of marine mammals;

19           “(D) research needed to identify modifications  
20           in fishing gear and practices likely to reduce the in-  
21           cidental mortality and serious injury of marine  
22           mammals in commercial fishing operations;

23           “(E) the actual, expected, or potential impacts  
24           of habitat destruction, including marine pollution  
25           and natural environmental change, on specific ma-

1 rine mammal species or stocks, and for strategic  
2 stocks, appropriate conservation or management  
3 measures to alleviate any such impacts; and

4 “(F) any other issue which the Secretary or the  
5 groups consider appropriate.

6 “(2) The scientific review groups established under  
7 this subsection shall not be subject to the Federal Advi-  
8 sory Committee Act (5 App. U.S.C.).

9 “(3) Members of the scientific review groups shall  
10 serve without compensation, but may be reimbursed by the  
11 Secretary, upon request, for reasonable travel costs and  
12 expenses incurred in performing their obligations.

13 “(4) The Secretary may appoint or reappoint individ-  
14 uals to the regional scientific review groups under para-  
15 graph (1) as needed.

16 “(e) EFFECT ON SECTION 101(b).—This section  
17 shall not affect or otherwise modify the provisions of sec-  
18 tion 101(b).”.

19 **SEC. 11. TAKING OF MARINE MAMMALS INCIDENTAL TO**  
20 **COMMERCIAL FISHING OPERATIONS.**

21 Title I (16 U.S.C. 1371 et seq.), as amended by this  
22 Act, is further amended by adding at the end the following  
23 new section:

1   **“SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO**  
2                   **COMMERCIAL FISHING OPERATIONS.**

3           “(a) IN GENERAL.—(1) Effective on the date of en-  
4   actment of this section, and except as provided in section  
5   114 and in paragraphs (2), (3), and (4) of this subsection,  
6   the provisions of this section shall govern the incidental  
7   taking of marine mammals in the course of commercial  
8   fishing operations by persons using vessels of the United  
9   States or vessels which have valid fishing permits issued  
10   by the Secretary in accordance with section 204(b) of the  
11   Magnuson Fishery Conservation and Management Act (16  
12   U.S.C. 1824(b)). In any event it shall be the immediate  
13   goal that the incidental mortality or serious injury of ma-  
14   rine mammals occurring in the course of commercial fish-  
15   ing operations be reduced to insignificant levels approach-  
16   ing a zero mortality and serious injury rate within 7 years  
17   after the date of enactment of this section.

18          “(2) In the case of the incidental taking of marine  
19   mammals from species or stocks designated under this Act  
20   as depleted on the basis of their listing as threatened spe-  
21   cies or endangered species under the Endangered Species  
22   Act of 1973 (16 U.S.C. 1531 et seq.), both this section  
23   and section 101(a)(5)(E) of this Act shall apply.

24          “(3) Sections 104(h) and title III, and not this sec-  
25   tion, shall govern the taking of marine mammals in the



1 course of commercial purse seine fishing for yellowfin tuna  
2 in the eastern tropical Pacific Ocean.

3 “(4) This section shall not govern the incidental tak-  
4 ing of California sea otters and shall not be deemed to  
5 amend or repeal the Act of November 7, 1986 (Public Law  
6 99–625; 100 Stat. 3500).

7 “(5) Except as provided in section 101(c), the inten-  
8 tional lethal take of any marine mammal in the course  
9 of commercial fishing operations is prohibited.

10 “(6) Sections 103 and 104 shall not apply to the inci-  
11 dental taking of marine mammals under the authority of  
12 this section.

13 “(b) ZERO MORTALITY RATE GOAL.—(1) Commer-  
14 cial fisheries shall reduce incidental mortality and serious  
15 injury of marine mammals to insignificant levels ap-  
16 proaching a zero mortality and serious injury rate within  
17 7 years after the date of enactment of this section.

18 “(2) Fisheries which maintain insignificant serious  
19 injury and mortality levels approaching a zero rate shall  
20 not be required to further reduce their mortality and seri-  
21 ous injury rates.

22 “(3) Three years after such date of enactment, the  
23 Secretary shall review the progress of all commercial fish-  
24 eries, by fishery, toward reducing incidental mortality and  
25 serious injury to insignificant levels approaching a zero

1 rate. The Secretary shall submit to the Committee on  
2 Commerce, Science, and Transportation of the Senate and  
3 the Committee on Merchant Marine and Fisheries of the  
4 House of Representatives a report setting forth the results  
5 of such review within 1 year after commencement of the  
6 review. The Secretary shall note any commercial fishery  
7 for which additional information is required to accurately  
8 assess the level of incidental mortality and serious injury  
9 of marine mammals in the fishery.

10 “(4) If the Secretary determines after review under  
11 paragraph (3) that the rate of incidental mortality and  
12 serious injury of marine mammals in a commercial fishery  
13 is not consistent with paragraph (1), then the Secretary  
14 shall take appropriate action under subsection (f).

15 “(c) REGISTRATION AND AUTHORIZATION.—(1) The  
16 Secretary shall, within 90 days after the date of enactment  
17 of this section—

18 “(A) publish in the Federal Register for public  
19 comment, for a period of not less than 90 days, any  
20 necessary changes to the Secretary’s list of commer-  
21 cial fisheries published under section 114(b)(1) and  
22 which is in existence on March 31, 1994 (along with  
23 an explanation of such changes and a statement de-  
24 scribing the marine mammal stocks interacting with,  
25 and the approximate number of vessels or persons

1 actively involved in, each such fishery), with respect  
2 to commercial fisheries that have—

3 “(i) frequent incidental mortality and seri-  
4 ous injury of marine mammals;

5 “(ii) occasional incidental mortality and se-  
6 rious injury of marine mammals; or

7 “(iii) a remote likelihood of or no known  
8 incidental mortality or serious injury of marine  
9 mammals;

10 “(B) after the close of the period for such pub-  
11 lic comment, publish in the Federal Register a re-  
12 vised list of commercial fisheries and an update of  
13 information required by subparagraph (A), together  
14 with a summary of the provisions of this section and  
15 information sufficient to advise vessel owners on how  
16 to obtain an authorization and otherwise comply  
17 with the requirements of this section; and

18 “(C) at least once each year thereafter, and at  
19 such other times as the Secretary considers appro-  
20 priate, reexamine, based on information gathered  
21 under this Act and other relevant sources and after  
22 notice and opportunity for public comment, the clas-  
23 sification of commercial fisheries and other deter-  
24 minations required under subparagraph (A) and

1 publish in the Federal Register any necessary  
2 changes.

3 “(2)(A) An authorization shall be granted by the Sec-  
4 retary in accordance with this section for a vessel engaged  
5 in a commercial fishery listed under paragraph (1)(A) (i)  
6 or (ii), upon receipt by the Secretary of a completed reg-  
7 istration form providing the name of the vessel owner and  
8 operator, the name and description of the vessel, the fish-  
9 eries in which it will be engaged, the approximate time,  
10 duration, and location of such fishery operations, and the  
11 general type and nature of use of the fishing gear and  
12 techniques used. Such information shall be in a readily  
13 usable format that can be efficiently entered into and uti-  
14 lized by an automated or computerized data processing  
15 system. A decal or other physical evidence that the author-  
16 ization is current and valid shall be issued by the Sec-  
17 retary at the time an authorization is granted, and so long  
18 as the authorization remains current and valid, shall be  
19 reissued annually thereafter.

20 “(B) No authorization may be granted under this sec-  
21 tion to the owner of a vessel unless such vessel—

22 “(i) is a vessel of the United States; or

23 “(ii) has a valid fishing permit issued by the  
24 Secretary in accordance with section 204(b) of the

1 Magnuson Fishery Conservation and Management  
2 Act (16 U.S.C. 1824(b)).

3 “(C) Except as provided in subsection (a), an author-  
4 ization granted under this section shall allow the inciden-  
5 tal taking of all species and stocks of marine mammals  
6 to which this Act applies.

7 “(3)(A) An owner of a vessel engaged in any fishery  
8 listed under paragraph (1)(A) (i) or (ii) shall, in order  
9 to engage in the lawful incidental taking of marine mam-  
10 mals in a commercial fishery—

11 “(i) have registered as required under para-  
12 graph (2) with the Secretary in order to obtain for  
13 each such vessel owned and used in the fishery an  
14 authorization for the purpose of incidentally taking  
15 marine mammals in accordance with this section, ex-  
16 cept that owners of vessels holding valid certificates  
17 of exemption under section 114 are deemed to have  
18 registered for purposes of this subsection for the pe-  
19 riod during which such exemption is valid;

20 “(ii) ensure that a decal or such other physical  
21 evidence of a current and valid authorization as the  
22 Secretary may require is displayed on or is in the  
23 possession of the master of each such vessel;

24 “(iii) report as required by subsection (e); and

1           “(iv) comply with any applicable take reduction  
2       plan and emergency regulations issued under this  
3       section.

4           “(B) Any owner of a vessel receiving an authorization  
5       under this section for any fishery listed under paragraph  
6       (1)(A) (i) or (ii) shall, as a condition of that authorization,  
7       take on board an observer if requested to do so by the  
8       Secretary.

9           “(C) An owner of a vessel engaged in a fishery listed  
10      under paragraph (1)(A) (i) or (ii) who—

11           “(i) fails to obtain from the Secretary an au-  
12      thorization for such vessel under this section;

13           “(ii) fails to maintain a current and valid au-  
14      thorization for such vessel; or

15           “(iii) fails to ensure that a decal or other phys-  
16      ical evidence of such authorization issued by the Sec-  
17      retary is displayed on or is in possession of the mas-  
18      ter of the vessel,

19      and the master of any such vessel engaged in such fishery,  
20      shall be deemed to have violated this title, and for viola-  
21      tions of clauses (i) and (ii) shall be subject to the penalties  
22      of this title, and for violations of clause (iii) shall be sub-  
23      ject to a fine of not more than \$100 for each offense.

24           “(D) If the owner of a vessel has obtained and main-  
25      tains a current and valid authorization from the Secretary

1 under this section and meets the requirements set forth  
2 in this section, including compliance with any regulations  
3 to implement a take reduction plan under this section, the  
4 owner of such vessel, and the master and crew members  
5 of the vessel, shall not be subject to the penalties set forth  
6 in this title for the incidental taking of marine mammals  
7 while such vessel is engaged in a fishery to which the au-  
8 thorization applies.

9       “(E) Each owner of a vessel engaged in any fishery  
10 not listed under paragraph (1)(A) (i) or (ii), and the mas-  
11 ter and crew members of such a vessel, shall not be subject  
12 to the penalties set forth in this title for the incidental  
13 taking of marine mammals if such owner reports to the  
14 Secretary, in the form and manner required under sub-  
15 section (e), instances of incidental mortality or injury of  
16 marine mammals in the course of that fishery.

17       “(4)(A) The Secretary shall suspend or revoke an au-  
18 thorization granted under this section and shall not issue  
19 a decal or other physical evidence of the authorization for  
20 any vessel until the owner of such vessel complies with  
21 the reporting requirements under subsection (e) and such  
22 requirements to take on board an observer under para-  
23 graph (3)(B) as are applicable to such vessel. Previous  
24 failure to comply with the requirements of section 114

1 shall not bar authorization under this section for an owner  
2 who complies with the requirements of this section.

3 “(B) The Secretary may suspend or revoke an au-  
4 thorization granted under this subsection, and may not  
5 issue a decal or other physical evidence of the authoriza-  
6 tion for any vessel which fails to comply with a take reduc-  
7 tion plan or emergency regulations issued under this sec-  
8 tion.

9 “(C) The owner and master of a vessel which fails  
10 to comply with a take reduction plan shall be subject to  
11 the penalties of sections 105 and 107, and may be subject  
12 to section 106.

13 “(5)(A) The Secretary shall develop, in consultation  
14 with the appropriate States, affected Regional Fishery  
15 Management Councils, and other interested persons, the  
16 means by which the granting and administration of au-  
17 thorizations under this section shall be integrated and co-  
18 ordinated, to the maximum extent practicable, with exist-  
19 ing fishery licenses, registrations, and related programs.

20 “(B) The Secretary shall utilize newspapers of gen-  
21 eral circulation, fishery trade associations, electronic  
22 media, and other means of advising commercial fishermen  
23 of the provisions of this section and the means by which  
24 they can comply with its requirements.



1       “(C) The Secretary is authorized to charge a fee for  
2 the granting of an authorization under this section. The  
3 level of fees charged under this subparagraph shall not  
4 exceed the administrative costs incurred in granting an  
5 authorization. Fees collected under this subparagraph  
6 shall be available to the Under Secretary of Commerce for  
7 Oceans and Atmosphere for expenses incurred in the  
8 granting and administration of authorizations under this  
9 section.

10       “(d) MONITORING OF INCIDENTAL TAKES.—(1) The  
11 Secretary shall establish a program to monitor incidental  
12 mortality and serious injury of marine mammals during  
13 the course of commercial fishing operations. The purposes  
14 of the monitoring program shall be to—

15               “(A) obtain statistically reliable estimates of in-  
16 cidental mortality and serious injury;

17               “(B) determine the reliability of reports of inci-  
18 dental mortality and serious injury under subsection  
19 (e); and

20               “(C) identify changes in fishing methods or  
21 technology that may increase or decrease incidental  
22 mortality and serious injury.

23       “(2) Pursuant to paragraph (1), the Secretary may  
24 place observers on board vessels as necessary, subject to

1 the provisions of this section. Observers may, among other  
2 tasks—

3 “(A) record incidental mortality and injury, or  
4 by catch of other nontarget species;

5 “(B) record numbers of marine mammals sight-  
6 ed; and

7 “(C) perform other scientific investigations.

8 “(3) In determining the distribution of observers  
9 among commercial fisheries and vessels within a fishery,  
10 the Secretary shall be guided by the following standards:

11 “(A) The requirement to obtain statistically re-  
12 liable information.

13 “(B) The requirement that assignment of ob-  
14 servers is fair and equitable among fisheries and  
15 among vessels in a fishery.

16 “(C) The requirement that no individual person  
17 or vessel, or group of persons or vessels, be subject  
18 to excessive or overly burdensome observer coverage.

19 “(D) To the extent practicable, the need to  
20 minimize costs and avoid duplication.

21 “(4) To the extent practicable, the Secretary shall al-  
22 locate observers among commercial fisheries in accordance  
23 with the following priority:

24 “(A) The highest priority for allocation shall be  
25 for commercial fisheries that have incidental mortal-

1       ity or serious injury of marine mammals from stocks  
2       listed as endangered species or threatened species  
3       under the Endangered Species Act of 1973 (16  
4       U.S.C. 1531 et seq.).

5           “(B) The second highest priority for allocation  
6       shall be for commercial fisheries that have incidental  
7       mortality and serious injury of marine mammals  
8       from strategic stocks.

9           “(C) The third highest priority for allocation  
10      shall be for commercial fisheries that have incidental  
11      mortality or serious injury of marine mammals from  
12      stocks for which the level of incidental mortality and  
13      serious injury is uncertain.

14       “(5) The Secretary may establish an alternative ob-  
15      server program to provide statistically reliable information  
16      on the species and number of marine mammals inciden-  
17      tally taken in the course of commercial fishing operations.  
18      The alternative observer program may include direct ob-  
19      servation of fishing activities from vessels, airplanes, or  
20      points on shore.

21       “(6) The Secretary is not required to place an ob-  
22      server on a vessel in a fishery if the Secretary finds that—

23           “(A) in a situation in which harvesting vessels  
24      are delivering fish to a processing vessel and the  
25      catch is not taken on board the harvesting vessel,

1 statistically reliable information can be obtained  
2 from an observer on board the processing vessel to  
3 which the fish are delivered;

4 “(B) the facilities on a vessel for quartering of  
5 an observer, or for carrying out observer functions,  
6 are so inadequate or unsafe that the health or safety  
7 of the observer or the safe operation of the vessel  
8 would be jeopardized; or

9 “(C) for reasons beyond the control of the Sec-  
10 retary, an observer is not available.

11 “(7) The Secretary may, with the consent of the ves-  
12 sel owner, station an observer on board a vessel engaged  
13 in a fishery not listed under subsection (c)(1)(A) (i) or  
14 (ii).

15 “(8) Any proprietary information collected under this  
16 subsection shall be confidential and shall not be disclosed  
17 except—

18 “(A) to Federal employees whose duties require  
19 access to such information;

20 “(B) to State or tribal employees pursuant to  
21 an agreement with the Secretary that prevents pub-  
22 lic disclosure of the identity or business of any per-  
23 son;

24 “(C) when required by court order; or

1           “(D) in the case of scientific information involv-  
2           ing fisheries, to employees of Regional Fishery Man-  
3           agement Councils who are responsible for fishery  
4           management plan development and monitoring.

5           “(9) The Secretary shall prescribe such procedures  
6           as may be necessary to preserve such confidentiality, ex-  
7           cept that the Secretary shall release or make public upon  
8           request any such information in aggregate, summary, or  
9           other form which does not directly or indirectly disclose  
10          the identity or business of any person.

11          “(e) REPORTING REQUIREMENT.—The owner or op-  
12          erator of a commercial fishing vessel subject to this Act  
13          shall report all incidental mortality and injury of marine  
14          mammals in the course of commercial fishing operations  
15          to the Secretary by mail or other means acceptable to the  
16          Secretary within 48 hours after the end of each fishing  
17          trip on a standard postage-paid form to be developed by  
18          the Secretary under this section. Such form shall be capa-  
19          ble of being readily entered into and usable by an auto-  
20          mated or computerized data processing system and shall  
21          require the vessel owner or operator to provide the follow-  
22          ing:

23                 “(1) The vessel name, and Federal, State, or  
24          tribal registration numbers of the registered vessel.

1           “(2) The name and address of the vessel owner  
2           or operator.

3           “(3) The name and description of the fishery.

4           “(4) The species of each marine mammal inci-  
5           dentally killed or injured, and the date, time, and  
6           approximate geographic location of such occurrence.

7           “(f) TAKE REDUCTION PLANS.—(1) The Secretary  
8           shall develop and implement a take reduction plan de-  
9           signed to assist in the recovery or prevent the depletion  
10          of each strategic stock which interacts with a commercial  
11          fishery listed under subsection (c)(1)(A) (i) or (ii), and  
12          may develop and implement such a plan for any other ma-  
13          rine mammal stocks which interact with a commercial  
14          fishery listed under subsection (c)(1)(A)(i) which the Sec-  
15          retary determines, after notice and opportunity for public  
16          comment, has a high level of mortality and serious injury  
17          across a number of such marine mammal stocks.

18          “(2) The immediate goal of a take reduction plan for  
19          a strategic stock shall be to reduce, within 6 months of  
20          its implementation, the incidental mortality or serious in-  
21          jury of marine mammals incidentally taken in the course  
22          of commercial fishing operations to levels less than the po-  
23          tential biological removal level established for that stock  
24          under section 117. The long-term goal of the plan shall  
25          be to reduce, within 5 years of its implementation, the in-

1 incidental mortality or serious injury of marine mammals  
2 incidentally taken in the course of commercial fishing op-  
3 erations to insignificant levels approaching a zero mortal-  
4 ity and serious injury rate, taking into account the eco-  
5 nomics of the fishery, the availability of existing tech-  
6 nology, and existing State or regional fishery management  
7 plans.

8       “(3) If there is insufficient funding available to de-  
9 velop and implement a take reduction plan for all such  
10 stocks that interact with commercial fisheries listed under  
11 subsection (c)(1)(A) (i) or (ii), the Secretary shall give  
12 highest priority to the development and implementation of  
13 take reduction plans for species or stocks whose level of  
14 incidental mortality and serious injury exceeds the poten-  
15 tial biological removal level, those that have a small popu-  
16 lation size, and those which are declining most rapidly.

17       “(4) Each take reduction plan shall include—

18               “(A) a review of the information in the final  
19 stock assessment published under section 117(b) and  
20 any substantial new information;

21               “(B) an estimate of the total number and, if  
22 possible, age and gender, of animals from the stock  
23 that are being incidentally lethally taken or seriously  
24 injured each year during the course of commercial  
25 fishing operations, by fishery;

1           “(C) recommended regulatory or voluntary  
2       measures for the reduction of incidental mortality  
3       and serious injury; and

4           “(D) recommended dates for achieving the spe-  
5       cific objectives of the plan.

6       “(5)(A) For any stock in which incidental mortality  
7       and serious injury from commercial fisheries exceeds the  
8       potential biological removal level established under section  
9       117, the plan shall include measures the Secretary expects  
10      will reduce, within 6 months of the plan’s implementation,  
11      such mortality and serious injury to a level below the po-  
12      tential biological removal level.

13       “(B) For any stock in which human-caused mortality  
14      and serious injury exceeds the potential biological removal  
15      level, other than a stock to which subparagraph (A) ap-  
16      plies, the plan shall include measures the Secretary ex-  
17      pects will reduce, to the maximum extent practicable with-  
18      in 6 months of the plan’s implementation, the incidental  
19      mortality and serious injury by such commercial fisheries  
20      from that stock. For purposes of this subparagraph, the  
21      term ‘maximum extent practicable’ means to the lowest  
22      level that is feasible for such fisheries within the 6-month  
23      period.

24       “(6)(A) At the earliest possible time (not later than  
25      30 days) after the Secretary issues a final stock assess-



1 ment under section 117(b) for a strategic stock, the Sec-  
2 retary shall, and for stocks that interact with a fishery  
3 listed under subsection (c)(1)(A)(i) for which the Sec-  
4 retary has made a determination under paragraph (1), the  
5 Secretary may—

6 “(i) establish a take reduction team for such  
7 stock and appoint the members of such team in ac-  
8 cordance with subparagraph (C); and

9 “(ii) publish in the Federal Register a notice of  
10 the team’s establishment, the names of the team’s  
11 appointed members, the full geographic range of  
12 such stock, and a list of all commercial fisheries that  
13 cause incidental mortality and serious injury of ma-  
14 rine mammals from such stock.

15 “(B) The Secretary may request a take reduction  
16 team to address a stock that extends over one or more  
17 regions or fisheries, or multiple stocks within a region or  
18 fishery, if the Secretary determines that doing so would  
19 facilitate the development and implementation of plans re-  
20 quired under this subsection.

21 “(C) Members of take reduction teams shall have ex-  
22 pertise regarding the conservation or biology of the marine  
23 mammal species which the take reduction plan will ad-  
24 dress, or the fishing practices which result in the inciden-  
25 tal mortality and serious injury of such species. Members

1 shall include representatives of Federal agencies, each  
2 coastal State which has fisheries which interact with the  
3 species or stock, appropriate Regional Fishery Manage-  
4 ment Councils, interstate fisheries commissions, academic  
5 and scientific organizations, environmental groups, all  
6 commercial and recreational fisheries groups and gear  
7 types which incidentally take the species or stock, Alaska  
8 Native organizations or Indian tribal organizations, and  
9 others as the Secretary deems appropriate. Take reduction  
10 teams shall, to the maximum extent practicable, consist  
11 of an equitable balance among representatives of resource  
12 user interests and nonuser interests.

13       “(D) Take reduction teams shall not be subject to  
14 the Federal Advisory Committee Act (5 App. U.S.C.).  
15 Meetings of take reduction teams shall be open to the pub-  
16 lic, and prior notice of meetings shall be made public in  
17 a timely fashion.

18       “(E) Members of take reduction teams shall serve  
19 without compensation, but may be reimbursed by the Sec-  
20 retary, upon request, for reasonable travel costs and ex-  
21 penses incurred in performing their duties as members of  
22 the team.

23       “(7) Where the human-caused mortality and serious  
24 injury from a strategic stock is estimated to be equal to  
25 or greater than the potential biological removal level estab-

1 lished under section 117 for such stock and such stock  
2 interacts with a fishery listed under subsection (c)(1)(A)  
3 (i) or (ii), the following procedures shall apply in the devel-  
4 opment of the take reduction plan for the stock:

5       “(A)(i) Not later than 6 months after the date  
6 of establishment of a take reduction team for the  
7 stock, the team shall submit a draft take reduction  
8 plan for such stock to the Secretary, consistent with  
9 the other provisions of this section.

10       “(ii) Such draft take reduction plan shall be de-  
11 veloped by consensus. In the event consensus cannot  
12 be reached, the team shall advise the Secretary in  
13 writing on the range of possibilities considered by  
14 the team, and the views of both the majority and mi-  
15 nority.

16       “(B)(i) The Secretary shall take the draft take  
17 reduction plan into consideration and, not later than  
18 60 days after the submission of the draft plan by the  
19 team, the Secretary shall publish in the Federal  
20 Register the plan proposed by the team, any changes  
21 proposed by the Secretary with an explanation of the  
22 reasons therefor, and proposed regulations to imple-  
23 ment such plan, for public review and comment dur-  
24 ing a period of not to exceed 90 days.

1           “(ii) In the event that the take reduction team  
2           does not submit a draft plan to the Secretary within  
3           6 months, the Secretary shall, not later than 8  
4           months after the establishment of the team, publish  
5           in the Federal Register a proposed take reduction  
6           plan and implementing regulations, for public review  
7           and comment during a period of not to exceed 90  
8           days.

9           “(C) Not later than 60 days after the close of  
10          the comment period required under subparagraph  
11          (B), the Secretary shall issue a final take reduction  
12          plan and implementing regulations, consistent with  
13          the other provisions of this section.

14          “(D) The Secretary shall, during a period of 30  
15          days after publication of a final take reduction plan,  
16          utilize newspapers of general circulation, fishery  
17          trade associations, electronic media, and other  
18          means of advising commercial fishermen of the re-  
19          quirements of the plan and how to comply with  
20          them.

21          “(E) The Secretary and the take reduction  
22          team shall meet every 6 months, or at such other in-  
23          tervals as the Secretary determines are necessary, to  
24          monitor the implementation of the final take reduc-  
25          tion plan until such time that the Secretary deter-

1 mines that the objectives of such plan have been  
2 met.

3 “(F) The Secretary shall amend the take reduc-  
4 tion plan and implementing regulations as necessary  
5 to meet the requirements of this section, in accord-  
6 ance with the procedures in this section for the issu-  
7 ance of such plans and regulations.

8 “(8) Where the human-caused mortality and serious  
9 injury from a strategic stock is estimated to be less than  
10 the potential biological removal level established under sec-  
11 tion 117 for such stock and such stock interacts with a  
12 fishery listed under subsection (c)(1)(A) (i) or (ii), or for  
13 any marine mammal stocks which interact with a commer-  
14 cial fishery listed under subsection (c)(1)(A)(i) for which  
15 the Secretary has made a determination under paragraph  
16 (1), the following procedures shall apply in the develop-  
17 ment of the take reduction plan for such stock:

18 “(A)(i) Not later than 11 months after the date  
19 of establishment of a take reduction team for the  
20 stock, the team shall submit a draft take reduction  
21 plan for the stock to the Secretary, consistent with  
22 the other provisions of this section.

23 “(ii) Such draft take reduction plan shall be de-  
24 veloped by consensus. In the event consensus cannot  
25 be reached, the team shall advise the Secretary in

1 writing on the range of possibilities considered by  
2 the team, and the views of both the majority and mi-  
3 nority.

4 “(B)(i) The Secretary shall take the draft take  
5 reduction plan into consideration and, not later than  
6 60 days after the submission of the draft plan by the  
7 team, the Secretary shall publish in the Federal  
8 Register the plan proposed by the team, any changes  
9 proposed by the Secretary with an explanation of the  
10 reasons therefor, and proposed regulations to imple-  
11 ment such plan, for public review and comment dur-  
12 ing a period of not to exceed 90 days.

13 “(ii) In the event that the take reduction team  
14 does not submit a draft plan to the Secretary within  
15 11 months, the Secretary shall, not later than 13  
16 months after the establishment of the team, publish  
17 in the Federal Register a proposed take reduction  
18 plan and implementing regulations, for public review  
19 and comment during a period of not to exceed 90  
20 days.

21 “(C) Not later than 60 days after the close of  
22 the comment period required under subparagraph  
23 (B), the Secretary shall issue a final take reduction  
24 plan and implementing regulations, consistent with  
25 the other provisions of this section.

1           “(D) The Secretary shall, during a period of 30  
2       days after publication of a final take reduction plan,  
3       utilize newspapers of general circulation, fishery  
4       trade associations, electronic media, and other  
5       means of advising commercial fishermen of the re-  
6       quirements of the plan and how to comply with  
7       them.

8           “(E) The Secretary and the take reduction  
9       team shall meet on an annual basis, or at such other  
10      intervals as the Secretary determines are necessary,  
11      to monitor the implementation of the final take re-  
12      duction plan until such time that the Secretary de-  
13      termines that the objectives of such plan have been  
14      met.

15          “(F) The Secretary shall amend the take reduc-  
16      tion plan and implementing regulations as necessary  
17      to meet the requirements of this section, in accord-  
18      ance with the procedures in this section for the issu-  
19      ance of such plans and regulations.

20          “(9) In implementing a take reduction plan developed  
21      pursuant to this subsection, the Secretary may, where nec-  
22      essary to implement a take reduction plan to protect or  
23      restore a marine mammal stock or species covered by such  
24      plan, promulgate regulations which include, but are not  
25      limited to, measures to—

1           “(A) establish fishery-specific limits on inciden-  
2           tal mortality and serious injury of marine mammals  
3           in commercial fisheries or restrict commercial fish-  
4           eries by time or area;

5           “(B) require the use of alternative commercial  
6           fishing gear or techniques and new technologies, en-  
7           courage the development of such gear or technology,  
8           or convene expert skippers’ panels;

9           “(C) educate commercial fishermen, through  
10          workshops and other means, on the importance of  
11          reducing the incidental mortality and serious injury  
12          of marine mammals in affected commercial fisheries;  
13          and

14          “(D) monitor, in accordance with subsection  
15          (d), the effectiveness of measures taken to reduce  
16          the level of incidental mortality and serious injury of  
17          marine mammals in the course of commercial fishing  
18          operations.

19          “(10)(A) Notwithstanding paragraph (6), in the case  
20          of any stock to which paragraph (1) applies for which a  
21          final stock assessment has not been published under sec-  
22          tion 117(b)(3) by April 1, 1995, due to a proceeding under  
23          section 117(b)(2), or any Federal court review of such pro-  
24          ceeding, the Secretary shall establish a take reduction



1 team under paragraph (6) for such stock as if a final stock  
2 assessment had been published.

3 “(B) The draft stock assessment published for such  
4 stock under section 117(b)(1) shall be deemed the final  
5 stock assessment for purposes of preparing and imple-  
6 menting a take reduction plan for such stock under this  
7 section.

8 “(C) Upon publication of a final stock assessment for  
9 such stock under section 117(b)(3) the Secretary shall im-  
10 mediately reconvene the take reduction team for such  
11 stock for the purpose of amending the take reduction plan,  
12 and any regulations issued to implement such plan, if nec-  
13 essary, to reflect the final stock assessment or court ac-  
14 tion. Such amendments shall be made in accordance with  
15 paragraph (7)(F) or (8)(F), as appropriate.

16 “(D) A draft stock assessment may only be used as  
17 the basis for a take reduction plan under this paragraph  
18 for a period of not to exceed two years, or until a final  
19 stock assessment is published, whichever is earlier. If, at  
20 the end of the two-year period, a final stock assessment  
21 has not been published, the Secretary shall categorize such  
22 stock under section 117(a)(5)(A) and shall revoke any reg-  
23 ulations to implement a take reduction plan for such  
24 stock.

1       “(E) Subparagraph (D) shall not apply for any pe-  
2 riod beyond two years during which a final stock assess-  
3 ment for such stock has not been published due to review  
4 of a proceeding on such stock assessment by a Federal  
5 court. Immediately upon final action by such court, the  
6 Secretary shall proceed under subparagraph (C).

7       “(11) Take reduction plans developed under this sec-  
8 tion for a species or stock listed as a threatened species  
9 or endangered species under the Endangered Species Act  
10 of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with  
11 any recovery plan developed for such species or stock  
12 under section 4 of such Act.

13       “(g) EMERGENCY REGULATIONS.—(1) If the Sec-  
14 retary finds that the incidental mortality and serious in-  
15 jury of marine mammals from commercial fisheries is hav-  
16 ing, or is likely to have, an immediate and significant ad-  
17 verse impact on a stock or species, the Secretary shall take  
18 actions as follows:

19               “(A) In the case of a stock or species for which  
20 a take reduction plan is in effect, the Secretary  
21 shall—

22                       “(i) prescribe emergency regulations that,  
23 consistent with such plan to the maximum ex-  
24 tent practicable, reduce incidental mortality and  
25 serious injury in that fishery; and

1           “(ii) approve and implement, on an expedited basis, any amendments to such plan that  
2           are recommended by the take reduction team to  
3           address such adverse impact.  
4

5           “(B) In the case of a stock or species for which  
6           a take reduction plan is being developed, the Secretary shall—  
7

8           “(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and  
9  
10

11           “(ii) approve and implement, on an expedited basis, such plan, which shall provide  
12           methods to address such adverse impact if still  
13           necessary.  
14

15           “(C) In the case of a stock or species for which  
16           a take reduction plan does not exist and is not being  
17           developed, or in the case of a commercial fishery listed under subsection (c)(1)(A)(iii) which the Secretary believes may be contributing to such adverse  
18           impact, the Secretary shall—  
19

20           “(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to  
21           mitigate such adverse impact;  
22  
23  
24

1           “(ii) immediately review the stock assess-  
2           ment for such stock or species and the classi-  
3           fication of such commercial fishery under this  
4           section to determine if a take reduction team  
5           should be established; and

6           “(iii) may, where necessary to address  
7           such adverse impact on a species or stock listed  
8           as a threatened species or endangered species  
9           under the Endangered Species Act of 1973 (16  
10          U.S.C. 1531 et seq.), place observers on vessels  
11          in a commercial fishery listed under subsection  
12          (c)(1)(A)(iii), if the Secretary has reason to be-  
13          lieve such vessels may be causing the incidental  
14          mortality and serious injury to marine mam-  
15          mals from such stock.

16          “(2) Prior to taking action under paragraph (1) (A),  
17          (B), or (C), the Secretary shall consult with the Marine  
18          Mammal Commission, all appropriate Regional Fishery  
19          Management Councils, State fishery managers, and the  
20          appropriate take reduction team (if established).

21          “(3) Emergency regulations prescribed under this  
22          subsection—

23                 “(A) shall be published in the Federal Register,  
24                 together with an explanation thereof;

1           “(B) shall remain in effect for not more than  
2       180 days or until the end of the applicable commer-  
3       cial fishing season, whichever is earlier; and

4           “(C) may be terminated by the Secretary at an  
5       earlier date by publication in the Federal Register of  
6       a notice of termination, if the Secretary determines  
7       that the reasons for emergency regulations no longer  
8       exist.

9       “(4) If the Secretary finds that incidental mortality  
10     and serious injury of marine mammals in a commercial  
11     fishery is continuing to have an immediate and significant  
12     adverse impact on a stock or species, the Secretary may  
13     extend the emergency regulations for an additional period  
14     of not more than 90 days or until reasons for the emer-  
15     gency no longer exist, whichever is earlier.

16       “(h) PENALTIES.—Except as provided in subsection  
17     (c), any person who violates this section shall be subject  
18     to the provisions of sections 105 and 107, and may be  
19     subject to section 106 as the Secretary shall establish by  
20     regulations.

21       “(i) ASSISTANCE.—The Secretary shall provide as-  
22     sistance to Regional Fishery Management Councils,  
23     States, interstate fishery commissions, and Indian tribal  
24     organizations in meeting the goal of reducing incidental

1 mortality and serious injury to insignificant levels ap-  
 2 proaching a zero mortality and serious injury rate.

3 “(j) CONTRIBUTIONS.—For purposes of carrying out  
 4 this section, the Secretary may accept, solicit, receive,  
 5 hold, administer, and use gifts, devises, and bequests.

6 “(k) CONSULTATION WITH SECRETARY OF THE IN-  
 7 TERIOR.—The Secretary shall consult with the Secretary  
 8 of the Interior prior to taking actions or making deter-  
 9 minations under this section that affect or relate to species  
 10 or population stocks of marine mammals for which the  
 11 Secretary of the Interior is responsible under this title.

12 “(l) DEFINITIONS.—As used in this section and sec-  
 13 tion 101(a)(5)(E), each of the terms ‘fishery’ and ‘vessel  
 14 of the United States’ has the same meaning it does in  
 15 section 3 of the Magnuson Fishery Conservation and Man-  
 16 agement Act (16 U.S.C. 1802).”.

17 **SEC. 12. DEFINITIONS.**

18 Section 3 (16 U.S.C. 1362) is amended by adding  
 19 at the end the following:

20 “(18)(A) The term ‘harassment’ means any act  
 21 of pursuit, torment, or annoyance which—

22 “(i) has the potential to injure a marine  
 23 mammal or marine mammal stock in the wild;  
 24 or

1           “(ii) has the potential to disturb a marine  
2           mammal or marine mammal stock in the wild  
3           by causing disruption of behavioral patterns, in-  
4           cluding, but not limited to, migration, breath-  
5           ing, nursing, breeding, feeding, or sheltering.

6           “(B) The term ‘Level A harassment’ means  
7           harassment described in subparagraph (A)(i).

8           “(C) The term ‘Level B harassment’ means  
9           harassment described in subparagraph (A)(ii).

10          “(19) The term ‘strategic stock’ means a ma-  
11          rine mammal stock—

12               “(A) for which the level of direct human-  
13               caused mortality exceeds the potential biological  
14               removal level;

15               “(B) which, based on the best available sci-  
16               entific information, is declining and is likely to  
17               be listed as a threatened species under the En-  
18               dangered Species Act of 1973 within the fore-  
19               seeable future; or

20               “(C) which is listed as a threatened species  
21               or endangered species under the Endangered  
22               Species Act of 1973 (16 U.S.C. 1531 et seq.),  
23               or is designated as depleted under this Act.

24          “(20) The term ‘potential biological removal  
25          level’ means the maximum number of animals, not

1 including natural mortalities, that may be removed  
2 from a marine mammal stock while allowing that  
3 stock to reach or maintain its optimum sustainable  
4 population. The potential biological removal level is  
5 the product of the following factors:

6 “(A) The minimum population estimate of  
7 the stock.

8 “(B) One-half the maximum theoretical or  
9 estimated net productivity rate of the stock at  
10 a small population size.

11 “(C) A recovery factor of between 0.1 and  
12 1.0.

13 “(21) The term ‘Regional Fishery Management  
14 Council’ means a Regional Fishery Management  
15 Council established under section 302 of the Magnu-  
16 son Fishery Conservation and Management Act.

17 “(22) The term ‘bona fide research’ means sci-  
18 entific research on marine mammals, the results of  
19 which—

20 “(A) likely would be accepted for publica-  
21 tion in a referred scientific journal;

22 “(B) are likely to contribute to the basic  
23 knowledge of marine mammal biology or ecol-  
24 ogy; or



1           “(C) are likely to identify, evaluate, or re-  
2           solve conservation problems.

3           “(23) The term ‘Alaska Native organization’  
4           means a group designated by law or formally char-  
5           tered which represents or consists of Indians, Aleuts,  
6           or Eskimos residing in Alaska.

7           “(24) The term ‘take reduction plan’ means a  
8           plan developed under section 118.

9           “(25) The term ‘take reduction team’ means a  
10          team established under section 118.

11          “(26) The term ‘net productivity rate’ means  
12          the annual per capita rate of increase in a stock re-  
13          sulting from additions due to reproduction, less  
14          losses due to mortality.

15          “(27) The term ‘minimum population estimate’  
16          means an estimate of the number of animals in a  
17          stock that—

18               “(A) is based on the best available sci-  
19               entific information on abundance, incorporating  
20               the precision and variability associated with  
21               such information; and

22               “(B) provides reasonable assurance that  
23               the stock size is equal to or greater than the es-  
24               timate.”.

1 **SEC. 13. PENALTIES; PROHIBITIONS.**

2 (a) CIVIL PENALTIES.—Section 105(a)(1) (16 U.S.C.  
3 1375(a)(1)) is amended by inserting “, except as provided  
4 in section 118,” after “thereunder”.

5 (b) CRIMINAL PENALTIES.—Section 105(b) (16  
6 U.S.C. 1375(b)) is amended by inserting “(except as pro-  
7 vided in section 118)” after “thereunder”.

8 (c) PROHIBITIONS.—Section 102(a) (16 U.S.C.  
9 1372(a)) is amended by striking “and 114 of this title or  
10 title III” and inserting “114, and 118 of this title and  
11 title IV”.

12 **SEC. 14. INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSIST-**  
13 **ENCE.**

14 Nothing in this Act, including any amendments to the  
15 Marine Mammal Protection Act of 1972 made by this  
16 Act—

17 (1) alters or is intended to alter any treaty be-  
18 tween the United States and one or more Indian  
19 tribes; or

20 (2) affects or otherwise modifies the provisions  
21 of section 101(b) of the Marine Mammal Protection  
22 Act of 1972 (16 U.S.C. 1371(b)), except as specifi-  
23 cally provided in the amendment made by section  
24 4(b) of this Act.

1 **SEC. 15. TRANSITION RULE; IMPLEMENTING REGULA-**  
2 **TIONS.**

3 (a) TRANSITION RULE.—Section 114(a)(1) (16  
4 U.S.C. 1383a(a)(1)) is amended by striking “ending April  
5 1, 1994,” and inserting in lieu thereof “until superseded  
6 by regulations prescribed under section 118, or until Sep-  
7 tember 1, 1995, whichever is earlier,”.

8 (b) IMPLEMENTING REGULATIONS.—Except as pro-  
9 vided otherwise in this Act, or the amendments to the Ma-  
10 rine Mammal Protection Act of 1972 (16 U.S.C. 1361 et  
11 seq.) made by this Act, the Secretary of Commerce or the  
12 Secretary of the Interior, as appropriate, shall, after notice  
13 and opportunity for public comment, promulgate regula-  
14 tions to implement this Act and the amendments made  
15 by this Act by January 1, 1995.

16 **SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.**

17 (a) DEFINITIONS.—Section 3 (16 U.S.C. 1362) is  
18 amended—

19 (1) by striking paragraph (17); and

20 (2) by redesignating the second paragraph (15)  
21 and paragraph (16) as paragraphs (16) and (17),  
22 respectively.

23 (b) UNUSUAL MORTALITY EVENT FUND.—Section  
24 405(a) (16 U.S.C. 1421d(a)), as so redesignated by this  
25 Act, is amended by striking “a fund” and inserting in lieu  
26 thereof “an interest bearing fund”.

1 **SEC. 17. HUMAN ACTIVITIES WITHIN PROXIMITY OF**  
2 **WHALES.**

3 (a) **LAWFUL APPROACHES.**—In waters of the United  
4 States surrounding the State of Hawaii, it is lawful for  
5 a person subject to the jurisdiction of the United States  
6 to approach, by any means other than an aircraft, no closer  
7 than 100 yards to a humpback whale, regardless of  
8 whether the approach is made in waters designated under  
9 section 222.31 of title 50, Code of Federal Regulations,  
10 as cow/calf waters.

11 (b) **TERMINATION OF LEGAL EFFECT OF CERTAIN**  
12 **REGULATIONS.**—Subsection (b) of section 222.31 of title  
13 50, Code of Federal Regulations, shall cease to be in force  
14 and effect.

15 **SEC. 18. SCRIMSHAW EXEMPTIONS.**

16 Notwithstanding any other provision of law, any valid  
17 certificate of exemption renewed by the Secretary (or  
18 deemed to be renewed) under section 10(f)(8) of the En-  
19 dangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) for  
20 any person holding such a certificate with respect to the  
21 possession of pre-Act finished scrimshaw products or raw  
22 material for such products shall remain valid for a period  
23 not to exceed 5 years beginning on the date of enactment  
24 of this Act.

1 **SEC. 19. MARINE MAMMAL COOPERATIVE AGREEMENTS IN**  
2 **ALASKA.**

3 Title I (16 U.S.C. 1371 et seq.), as amended by this  
4 Act, is further amended by adding at the end the following  
5 new section:

6 **“SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS**  
7 **IN ALASKA.**

8 “(a) IN GENERAL.—The Secretary may enter into co-  
9 operative agreements with Alaska Native organizations to  
10 conserve marine mammals and provide co-management of  
11 subsistence use by Alaska Natives.

12 “(b) GRANTS.—Agreements entered into under this  
13 section may include grants to Alaska Native organizations  
14 for, among other purposes—

15 “(1) collecting and analyzing data on marine  
16 mammal populations;

17 “(2) monitoring the harvest of marine mam-  
18 mals for subsistence use;

19 “(3) participating in marine mammal research  
20 conducted by the Federal Government, States, aca-  
21 demic institutions, and private organizations; and

22 “(4) developing marine mammal co-manage-  
23 ment structures with Federal and State agencies.

24 “(c) EFFECT OF JURISDICTION.—Nothing in this  
25 section is intended or shall be construed—

1           “(1) as authorizing any expansion or change in  
2           the respective jurisdiction of Federal, State, or tribal  
3           governments over fish and wildlife resources; or

4           “(2) as altering in any respect the existing po-  
5           litical or legal status of Alaska Natives, or the gov-  
6           ernmental or jurisdictional status of Alaska Native  
7           communities or Alaska Native entities.

8           “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
9           are authorized to be appropriated for the purposes of car-  
10          rying out this section—

11           “(1) \$1,500,000 to the Secretary of Commerce  
12          for each of the fiscal years 1994, 1995, 1996, 1997,  
13          1998, and 1999; and

14           “(2) \$1,000,000 to the Secretary of the Interior  
15          for each of the fiscal years 1994, 1995, 1996, 1997,  
16          1998, and 1999.

17          The amounts authorized to be appropriated under this  
18          subsection are in addition to the amounts authorized to  
19          be appropriated under section 116.”.

20          **SEC. 20. MARINE ECOSYSTEM PROTECTION.**

21          Section 110 (16 U.S.C. 1380) is amended by striking  
22          subsection (c) and inserting the following:

23           “(c)(1) No later than 1 year after the date of enact-  
24          ment of the Marine Mammal Protection Act Amendments  
25          of 1994, the Secretary of Commerce shall convene a re-

1 gional workshop for the Gulf of Maine to assess human-  
2 caused factors affecting the health and stability of that  
3 marine ecosystem, of which marine mammals are a part.  
4 The workshop shall be conducted in consultation with the  
5 Marine Mammal Commission, the adjacent coastal States,  
6 individuals with expertise in marine mammal biology and  
7 ecology, representatives from environmental organizations,  
8 the fishing industry, and other appropriate persons. The  
9 goal of the workshop shall be to identify such factors, and  
10 to recommend a program of research and management to  
11 restore or maintain that marine ecosystem and its key  
12 components that—

13           “(A) protects and encourages marine mammals  
14       to develop to the greatest extent feasible commensu-  
15       rate with sound policies of resource management;

16           “(B) has as the primary management objective  
17       the maintenance of the health and stability of the  
18       marine ecosystems;

19           “(C) ensures the fullest possible range of man-  
20       agement options for future generations; and

21           “(D) permits nonwasteful, environmentally  
22       sound development of renewable and nonrenewable  
23       resources.

24       “(2) On or before December 31, 1995, the Secretary  
25 of Commerce shall submit to the Committee on Merchant

1 Marine and Fisheries of the House of Representatives and  
2 the Committee on Commerce, Science and Transportation  
3 of the Senate a report containing the results of the work-  
4 shop under this subsection, proposed regulatory or re-  
5 search actions, and recommended legislative action.

6       “(d)(1) The Secretary of Commerce, in consultation  
7 with the Secretary of the Interior, the Marine Mammal  
8 Commission, the State of Alaska, and Alaska Native orga-  
9 nizations, shall, not later than 180 days after the date of  
10 enactment of the Marine Mammal Protection Act Amend-  
11 ments of 1994, undertake a scientific research program  
12 to monitor the health and stability of the Bering Sea ma-  
13 rine ecosystem and to resolve uncertainties concerning the  
14 causes of population declines of marine mammals, sea  
15 birds, and other living resources of that marine ecosystem.  
16 The program shall address the research recommendations  
17 developed by previous workshops on Bering Sea living ma-  
18 rine resources, and shall include research on subsistence  
19 uses of such resources and ways to provide for the contin-  
20 ued opportunity for such uses.

21       “(2) To the maximum extent practicable, the re-  
22 search program undertaken pursuant to paragraph (1)  
23 shall be conducted in Alaska. The Secretary of Commerce  
24 shall utilize, where appropriate, traditional local knowl-



1 edge and may contract with a qualified Alaska Native or-  
2 ganization to conduct such research.

3 “(3) The Secretary of Commerce, the Secretary of the  
4 Interior, and the Commission shall address the status and  
5 findings of the research program in their annual reports  
6 to Congress required by sections 103(f) and 204 of this  
7 Act.”.

8 **SEC. 21. INTERJURISDICTIONAL FISHERIES ACT OF 1986.**

9 Section 308(b) of the Interjurisdictional Fisheries  
10 Act of 1986 (16 U.S.C. 4107(b)) is amended by striking  
11 “\$2,500,000 for each of the fiscal years 1989, 1990, 1991,  
12 1992, 1993, 1994, and 1995” and inserting in lieu thereof  
13 “\$65,000,000 for each of the fiscal years 1994 and 1995”.

14 **SEC. 22. COASTAL ECOSYSTEM HEALTH.**

15 (a) REQUIREMENT TO CONVEY.—Not later than Sep-  
16 tember 30, 1994, the Secretary of the Navy shall convey,  
17 without payment or other consideration, to the Secretary  
18 of Commerce, all right, title, and interest to the property  
19 comprising that portion of the Naval Base, Charleston,  
20 South Carolina, bounded by Hobson Avenue, the Cooper  
21 River, the landward extension of the northwest side of Pier  
22 R, and the fenceline between the buildings known as 200  
23 and NS-16. Such property shall include Pier R, the build-  
24 ings known as RTC-1, RTC-4, 200, and 1874, all towers

1 and outbuildings on that property, and all walkways and  
2 parking areas associated with such buildings and Pier R.

3 (b) SURVEY; EFFECT ON LIABILITY OF SECRETARY  
4 OF THE NAVY.—The acreage and legal description of the  
5 property to be conveyed pursuant to this section shall be  
6 determined by a survey approved by the Secretary of the  
7 Navy. Such conveyance shall not release the Secretary of  
8 the Navy from any liability arising prior to, during, or  
9 after such conveyance as a result of the ownership or occu-  
10 pation of the property by the United States Navy.

11 (c) USE BY NATIONAL OCEANIC AND ATMOSPHERIC  
12 ADMINISTRATION.—The property conveyed pursuant to  
13 this section shall be used by the Secretary of Commerce  
14 in support of the operations of the National Oceanic and  
15 Atmospheric Administration.

16 (d) REVERSION RIGHTS.—Conveyance of the prop-  
17 erty pursuant to this section shall be subject to the condi-  
18 tion that all right, title, and interest in and to the property  
19 so conveyed shall immediately be conveyed to the public  
20 entity vested with ownership of the remainder of the  
21 Charleston Naval Base, if and when—

22 (1) continued ownership and occupation of the  
23 property by the National Oceanic and Atmospheric  
24 Administration no longer is compatible with the  
25 comprehensive plan for reuse of the Charleston

1 Naval Base developed by the community reuse com-  
2 mittee and approved by the Secretary of the Navy;  
3 and

4 (2) such public entity provides for relocation of  
5 the programs and personnel of the National Oceanic  
6 and Atmospheric Administration occupying such  
7 property, at no further cost to the United States  
8 Government, to a comparable facility, including ad-  
9 jacent waterfront and pier, within the Charleston  
10 area.

11 **SEC. 23. PACIFIC COAST TASK FORCE; GULF OF MAINE.**

12 Title I (16 U.S.C. 1371 et seq.), as amended by this  
13 Act, is further amended by adding at the end the following  
14 new section:

15 **“SEC. 120. PACIFIC COAST TASK FORCE; GULF OF MAINE.**

16 “(a) PINNIPED REMOVAL AUTHORITY.—Notwith-  
17 standing any other provision of this title, the Secretary  
18 may permit the intentional lethal taking of pinnipeds in  
19 accordance with this section.

20 “(b) APPLICATION.—(1) A State may apply to the  
21 Secretary to authorize the intentional lethal taking of indi-  
22 vidually identifiable pinnipeds which are having a signifi-  
23 cant negative impact on the decline or recovery of  
24 salmonid fishery stocks which—

1           “(A) have been listed as threatened species or  
2           endangered species under the Endangered Species  
3           Act of 1973 (16 U.S.C. 1531 et seq.);

4           “(B) the Secretary finds are approaching  
5           threatened species or endangered species status (as  
6           those terms are defined in that Act); or

7           “(C) migrate through the Ballard Locks at Se-  
8           attle, Washington.

9           “(2) Any such application shall include a means of  
10          identifying the individual pinniped or pinnipeds, and shall  
11          include a detailed description of the problem interaction  
12          and expected benefits of the taking.

13          “(c) ACTIONS IN RESPONSE TO APPLICATION.—(1)  
14          Within 15 days of receiving an application, the Secretary  
15          shall determine whether the application has produced suf-  
16          ficient evidence to warrant establishing a Pinniped-Fish-  
17          ery Interaction Task Force to address the situation de-  
18          scribed in the application. If the Secretary determines suf-  
19          ficient evidence has been provided, the Secretary shall es-  
20          tablish a Pinniped-Fishery Interaction Task Force and  
21          publish a notice in the Federal Register requesting public  
22          comment on the application.

23          “(2) A Pinniped-Fishery Interaction Task Force es-  
24          tablished under paragraph (1) shall consist of designated  
25          employees of the Department of Commerce, scientists who

1 are knowledgeable about the pinniped interaction that the  
2 application addresses, representatives of affected con-  
3 servation and fishing community organizations, Indian  
4 Treaty tribes, the States, and such other organizations as  
5 the Secretary deems appropriate.

6 “(3) Within 60 days after establishment, and after  
7 reviewing public comments in response to the Federal  
8 Register notice under paragraph (1), the Pinniped-Fishery  
9 Interaction Task Force shall—

10 “(A) recommend to the Secretary whether to  
11 approve or deny the proposed intentional lethal tak-  
12 ing of the pinniped or pinnipeds, including along  
13 with the recommendation a description of the spe-  
14 cific pinniped individual or individuals, the proposed  
15 location, time, and method of such taking, criteria  
16 for evaluating the success of the action, and the du-  
17 ration of the intentional lethal taking authority; and

18 “(B) suggest nonlethal alternatives, if available  
19 and practicable, including a recommended course of  
20 action.

21 “(4) Within 30 days after receipt of recommendations  
22 from the Pinniped-Fishery Interaction Task Force, the  
23 Secretary shall either approve or deny the application. If  
24 such application is approved, the Secretary shall imme-  
25 diately take steps to implement the intentional lethal tak-

1 ing, which shall be performed by Federal or State agen-  
2 cies, or qualified individuals under contract to such agen-  
3 cies.

4 “(5) After implementation of an approved applica-  
5 tion, the Pinniped-Fishery Interaction Task Force shall  
6 evaluate the effectiveness of the permitted intentional le-  
7 thal taking or alternative actions implemented. If imple-  
8 mentation was ineffective in eliminating the problem inter-  
9 action, the Task Force shall recommend additional ac-  
10 tions. If the implementation was effective, the Task Force  
11 shall so advise the Secretary, and the Secretary shall dis-  
12 band the Task Force.

13 “(d) CONSIDERATIONS.—In considering whether an  
14 application should be approved or denied, the Pinniped-  
15 Fishery Interaction Task Force and the Secretary shall  
16 consider—

17 “(1) population trends, feeding habits, the loca-  
18 tion of the pinniped interaction, how and when the  
19 interaction occurs, and how many individual  
20 pinnipeds are involved;

21 “(2) past efforts to nonlethally deter such  
22 pinnipeds, and whether the applicant has dem-  
23 onstrated that no feasible and prudent alternatives  
24 exist and that the applicant has taken all reasonable  
25 nonlethal steps without success;

1           “(3) the extent to which such pinnipeds are  
2           causing undue injury or impact to, or imbalance  
3           with, other species in the ecosystem, including fish  
4           populations; and

5           “(4) the extent to which such pinnipeds are ex-  
6           hibiting behavior that presents an ongoing threat to  
7           public safety.

8           “(e) LIMITATION.—The Secretary shall not approve  
9           the intentional lethal taking of any pinniped from a spe-  
10          cies or stock that is—

11           “(1) listed as a threatened species or endan-  
12           gered species under the Endangered Species Act of  
13           1973 (16 U.S.C. 1531 et seq.);

14           “(2) depleted under this Act; or

15           “(3) a strategic stock.

16           “(f) CALIFORNIA SEA LIONS AND PACIFIC HARBOR  
17          SEALS; INVESTIGATION AND REPORT.—

18           “(1) The Secretary shall engage in a scientific  
19           investigation to determine whether California sea  
20           lions and Pacific harbor seals—

21           “(A) are having a significant negative im-  
22           pact on the recovery of salmonid fishery stocks  
23           which have been listed as endangered species or  
24           threatened species under the Endangered Spe-  
25           cies Act of 1973 (16 U.S.C. 1531 et seq.), or

1           which the Secretary finds are approaching such  
2           endangered species or threatened species status;  
3           or

4           “(B) are having broader impacts on the  
5           coastal ecosystems of Washington, Oregon, and  
6           California.

7           The Secretary shall conclude this investigation and  
8           prepare a report on its results no later than October  
9           1, 1995.

10           “(2) Upon completion of the scientific investiga-  
11           tion required under paragraph (1), the Secretary  
12           shall enter into discussions with the Pacific States  
13           Marine Fisheries Commission, on behalf of the  
14           States of Washington, Oregon, and California, for  
15           the purpose of addressing any issues or problems  
16           identified as a result of the scientific investigation,  
17           and to develop recommendations to address such is-  
18           sues or problems. Any recommendations resulting  
19           from such discussions shall be submitted, along with  
20           the report, to the Committee on Merchant Marine  
21           and Fisheries of the House of Representatives and  
22           the Committee on Commerce, Science, and Trans-  
23           portation of the Senate.

24           “(3) The Secretary shall make the report and  
25           the recommendations submitted under paragraph (2)



1 available to the public for review and comment for  
2 a period of 90 days.

3 “(4) There are authorized to be appropriated to  
4 the Secretary such sums as are necessary to carry  
5 out the provisions of this subsection.

6 “(5) The amounts appropriated under section  
7 308(c) of the Interjurisdictional Fisheries Act of  
8 1986 (16 U.S.C. 4107(c)) and allocated to the Pa-  
9 cific States Marine Fisheries Commission may be  
10 used by the Commission to participate in discussions  
11 with the Secretary under paragraph (2).

12 “(g) REGIONWIDE PINNIPED-FISHERY INTERACTION  
13 STUDY.—

14 “(1) The Secretary may conduct a study, of not  
15 less than three high predation areas in anadromous  
16 fish migration corridors within the Northwest Re-  
17 gion of the National Marine Fisheries Service, on  
18 the interaction between fish and pinnipeds. In con-  
19 ducting the study, the Secretary shall consult with  
20 other State and Federal agencies with expertise in  
21 pinniped-fishery interaction. The study shall evalu-  
22 ate—

23 “(A) fish behavior in the presence of pred-  
24 ators generally;

1           “(B) holding times and passage rates of  
2           anadromous fish stocks in areas where such fish  
3           are vulnerable to predation;

4           “(C) whether additional facilities exist, or  
5           could be reasonably developed, that could im-  
6           prove escapement for anadromous fish; and

7           “(D) other issues the Secretary considers  
8           relevant.

9           “(2) Subject to the availability of appropria-  
10          tions, the Secretary may, not later than 18 months  
11          after the commencement of the study under this  
12          subsection, transmit a report on the results of the  
13          study to the Committee on Commerce, Science, and  
14          Transportation of the Senate and the Committee on  
15          Merchant Marine and Fisheries of the House of  
16          Representatives.

17          “(3) The study conducted under this subsection  
18          may not be used by the Secretary as a reason for  
19          delaying or deferring a determination or consider-  
20          ation under subsection (c) or (d).

21          “(h) GULF OF MAINE TASK FORCE.—The Secretary  
22          shall establish a Pinniped-Fishery Interaction Task Force  
23          to advise the Secretary on issues or problems regarding  
24          pinnipeds interacting in a dangerous or damaging manner  
25          with aquaculture resources in the Gulf of Maine. No later

1 than 2 years from the date of enactment of this section,  
2 the Secretary shall after notice and opportunity for public  
3 comment submit to the Committee on Merchant Marine  
4 and Fisheries of the House of Representatives and the  
5 Committee on Commerce, Science, and Transportation of  
6 the Senate a report containing recommended available al-  
7 ternatives to mitigate such interactions.

8 “(i) REQUIREMENTS APPLICABLE TO TASK  
9 FORCES.—(1) Any task force established under this sec-  
10 tion—

11 “(A) shall to the maximum extent practicable,  
12 consist of an equitable balance among representa-  
13 tives of resource user interests and nonuser inter-  
14 ests; and

15 “(B) shall not be subject to the Federal Advi-  
16 sory Committee Act (5 App. U.S.C.).

17 “(2) Meetings of any task force established under this  
18 section shall be open to the public, and prior notice of  
19 those meetings shall be given to the public by the task  
20 force in a timely fashion.

21 “(j) GULF OF MAINE HARBOR PORPOISE.—(1)  
22 Nothing in section 117 shall prevent the Secretary from  
23 publishing a stock assessment for Gulf of Maine harbor  
24 porpoise in an expedited fashion.

1       “(2) In developing and implementing a take reduction  
 2 plan under section 118 for Gulf of Maine harbor porpoise,  
 3 the Secretary shall consider all actions already taken to  
 4 reduce incidental mortality and serious injury of such  
 5 stock, and may, based on the recommendations of the take  
 6 reduction team for such stock, modify the time period re-  
 7 quired for compliance with section 118(f)(5)(A), but in no  
 8 case may such modification extend the date of compliance  
 9 beyond April 1, 1997.”.

10 **SEC 24. FURTHER TECHNICAL AND CONFORMING AMEND-**  
 11 **MENTS.**

12       (a) AMENDMENTS RELATING TO DEFINITION OF  
 13 SECRETARY.—

14               (1) EXECUTION OF PRIOR AMENDMENTS.—The  
 15 amendments set forth in section 3004(b) of the Ma-  
 16 rine Mammal Health and Stranding Response Act  
 17 (106 Stat. 5067)—

18                       (A) are deemed to have been made by that  
 19 section to section 3(12) of the Marine Mammal  
 20 Protection Act of 1972 (16 U.S.C. 1362(12));  
 21 and

22                       (B) shall not be considered to have been  
 23 made by that section to section 3(11) of that  
 24 Act (16 U.S.C. 1362(11)).

1           (2) FURTHER TECHNICAL AND CONFORMING  
2       AMENDMENTS.—Section 3(12)(B) of the Marine  
3       Mammal Protection Act of 1972, as deemed by  
4       paragraph (1)(A) of this subsection to have been  
5       amended by section 3004(b) of the Marine Mammal  
6       Health and Stranding Response Act (106 Stat.  
7       5067), is further amended in subparagraph (B) by  
8       striking “in title III” and inserting “in section 118  
9       and title IV”.

10       (b) MARINE MAMMAL HEALTH AND STRANDING RE-  
11       SPONSE.—The Act (16 U.S.C. 1361 et seq.) is amended—

12           (1) by redesignating title III, as added by Pub-  
13       lic Law 102–587 (106 Stat. 5060), as title IV; and

14           (2) by redesignating the sections of that title  
15       (16 U.S.C. 1421 through 1421h) as sections 401  
16       through 409, respectively.

17       (c) FURTHER AMENDMENTS TO TITLE IV.—The Act  
18       (16 U.S.C. 1361 et seq.) is amended—

19           (1) in section 401(b)(3) (as redesignated by  
20       this section) by striking “304” and inserting “404”;

21           (2) in section 405(b)(1)(A)(i) (as redesignated  
22       by this section) by striking “304(b)” and inserting  
23       “404(b)”;

1           (3) in section 406(a)(2)(A) (as redesignated by  
2           this section) by striking “304(b)” and inserting  
3           “404(b)”;

4           (4) in section 406(a)(2)(B) (as redesignated by  
5           this section) by striking “304(c)” and inserting  
6           “404(c)”;

7           (5) in section 408(1) (as redesignated by this  
8           section)—

9                   (A) by striking “305” and inserting  
10                  “405”, and

11                   (B) by striking “307” and inserting  
12                  “407”;

13           (6) in section 408(2) (as redesignated by this  
14           section) by striking “307” and inserting “407”;

15           (7) in section 409(1) (as redesignated by this  
16           section) by striking “305(a)” and inserting  
17           “405(a)”;

18           (8) in section 409(5) (as redesignated by this  
19           section) by striking “307(a)” and inserting  
20           “407(a)”;

21           (9) in section 102(a) (16 U.S.C. 1372(a)) by  
22           striking “title III” and inserting “title IV”;

23           (10) in section 109(h)(1) (16 U.S.C.  
24           1379(h)(1)) by striking “title III” and inserting  
25           “title IV”;

1 (11) in section 112(c) (16 U.S.C. 1382(c)) by  
 2 striking “or title III” and inserting “or title IV”;  
 3 and

4 (12) in the table of contents in the first section,  
 5 by striking the items relating to the title that is re-  
 6 designated by subsection (b) of this section and the  
 7 sections that are redesignated by subsection (b) of  
 8 this section and inserting the following:

“TITLE IV—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

- “Sec. 401. Establishment of program.
- “Sec. 402. Determination; data collection and dissemination.
- “Sec. 403. Stranding response agreements.
- “Sec. 404. Unusual mortality event response.
- “Sec. 405. Unusual mortality event activity funding.
- “Sec. 406. Liability.
- “Sec. 407. National Marine Mammal Tissue Bank and tissue analysis.
- “Sec. 408. Authorization of appropriations.
- “Sec. 409. Definitions.”.

9 (d) CLERICAL AMENDMENTS.—The portion of the  
 10 table of contents in the first section of the Act relating  
 11 to title I is amended by adding at the end the following  
 12 new items:

- “Sec. 117. Stock assessments.
- “Sec. 118. Taking of marine mammals incidental to commercial fishing operations.
- “Sec. 119. Marine mammal cooperative agreements in Alaska.
- “Sec. 120. Pacific Coast Task Force; Gulf of Maine.”.

13 (e) EFFECTIVE DATE.—The amendments made by  
 14 subsection (a) shall be effective as if enacted as part of  
 15 section 3004 of the Marine Mammal Health and Strand-  
 16 ing Response Act (106 Stat. 5067).

**1 SEC. 25. TRANSFER.**

2 Of amounts appropriated by Public Law 103-139 to  
3 the Department of the Navy for Shipbuilding and Conver-  
4 sion, Navy, the Secretary of the Navy shall transfer  
5 \$8,000,000 not later than May 15, 1994, to the Adminis-  
6 trator of the Maritime Administration for the conversion  
7 of the USNS CHAUVENET to a training ship for the  
8 Texas Maritime Academy's Training Program.

9 ○

10 HRES 412 ATH—2

11 HRES 412 ATH—3

12 HRES 412 ATH—4

13 HRES 412 ATH—5

14 HRES 412 ATH—6

15 HRES 412 ATH—7